

Next we were blamed for not having used the military forces at our disposal more effectively in the early days. Men, who would have been the first to denounce us as butchers if we had done what they now suggest, have not hesitated to tell us that if we had ordered more firing and killed more people at the beginning we should have been spared the later phases of the riots and that there would have been a saving of life in the long run.

Then because the majority of the police are Hindus Muhammadan critics have felt justified in making a general accusation against them of partiality and even of aiding and abetting their co-religionists in looting Muhammadan property.

Then we were blamed for sharing the view of every one of our critics that the trouble was at an end when all rioting had ceased and for not having foreseen the recrudescence of rioting which started with a drunken quarrel on April 22.

In this second phase we were blamed for not using the military at all and for having failed to prevent the commission of a number of assaults upon private individuals.

Taking the two periods together we have been told that we have shown indifference and incompetence, that we have not used the powers we already possess to get rid of bad characters and that to cover up our own sins of omission we are now asking for new and wholly unnecessary powers when it is too late for them to be of any use in the present emergency, but which may be put to an improper use in the future in connexion with political agitation or trade disputes.

That is the case we have to meet and we shall do our best to meet it, for we realise that if you believe such charges to be well-founded you will certainly not feel disposed to entrust us with greater responsibilities and provide us with more effective means of dealing with future emergencies.

Now let me recall to you the circumstances which have given rise to these criticisms and endeavour to meet them. The riots started on Friday, April 2. There had been evidence all over India of growing tension between the two communities but there had been no previous indication that Calcutta was likely to be the battle ground. The first incident was a riot between the Muhammadans and the Hindus over an Arya Samaj procession. This is not the time nor the place to discuss the question of who were the actual aggressors on that particular occasion. The local police force dealt with the riot and suppressed it, and at the end of that day it was hoped that the outburst would be localized. On the following morning, however, the tension led to further riots and was intensified by attacks on mosques and temples. The area over which the disturbances spread used up.

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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

**His Excellency the Right Hon'ble VICTOR ALEXANDER GEORGE ROBERT
BULWER-LYTTON, Earl of Lytton, P.C., G.C.S.I., G.C.I.E.**

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**The Hon'ble Sir HUGH STIMPSON, K.C.I.E., C.S.I., I.C.S., in charge
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2. Political, excluding Haj pilgrimage
3. Police
4. Ecclesiastical
5. Regulation of medical and other professional qualifications
and standards, subject to legislation by the Indian
Legislature.
6. Jails.
7. Judicial.
8. Legislative, including the Executive Administration of the
Legislative Department and elections for Indian and
Provincial Legislatures, subject to rules framed under
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ing portfolios:—**

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2. Separate Revenue.
3. Commerce and Industrial subjects.
4. Marine.
5. Education.
6. Public Works

GOVERNMENT OF BENGAL.

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2. Land Acquisition.
3. Excluded Areas.
4. Irrigation.
5. Medical administration, including hospitals, dispensaries and
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6. Local Self-Government.

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2. Immigration.
3. Jurisdiction.
4. Haj Pilgrimage.
5. Forests.
6. Agriculture and Industries.
7. Excise.
8. Registration.

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GOVERNMENT OF BENGAL.
PRINCIPAL OFFICERS OF THE BENGAL LEGISLATIVE
COUNCIL.

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The Hon'ble Kumar SHIB SHEKHARESWAR RAY.

DEPUTY PRESIDENT.

Dr. ABDULLAH AL-MAMUN SCHRWARDY.

Panel of Chairmen for the Twenty-first Session.

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Mr. W. L. TRAVERS, C.I.E., O.B.E.

Maulvi EKRAMUL HUQ.

Raja MANMATHA NATH RAY CHAUDHURI of Santosh.

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DE C. WILLIAMS, I.C.S. (Offg.).

Assistant Secretaries to the Council—A. M. HUTCHISON (on leave),
K. N. MAJUMDAR, and J. W. MCKAY (Offg.).

Registrar to the Council—M. MUKHERJI (Offg.).

BENGAL LEGISLATIVE COUNCIL.

ALPHABETICAL LIST OF MEMBERS.

A

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Ahamad, Maulvi Asimuddin. [Tippera (Muhammadan).]
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Ahmed, Maulvi Zannoor. [Burdwan Division South (Muhammadan).]
Ahsanullah, Mollah. [Rajshahi North (Muhammadan).]
Aley, Khan Bahadur S. Mahboob. [Calcutta North (Muhammadan).]
Ali, Maulvi Sayyed Sultan. [Khulna (Muhammadan).]
Ali, Mr. Altaf. [Mymensingh East (Muhammadan).]

B

Bagchi, Babu Romes Chandra. [Mulda (Non-Muhammadan).]
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C

Chakravarti, Mr. Byomkes. [24-Parganas Rural South (Non-Muhammadan).]
Chakravarti, Babu Jogindra Chandra. [Dinajpur (Non-Muhammadan).]
Chakravorty, Babu Sudarsan. [Rajshahi (Non-Muhammadan).]
Chatterjee, Babu Umes Chandra. [Bankura East (Non-Muhammadan).]

vi ALPHABETICAL LIST OF MEMBERS.

Chaudhuri, the Hon'ble Nawab Bahadur Saiyid Nawab Ali, Khan Bahadur, C.I.E. [Member, Executive Council.]
 Chaudhuri, Rai Harendranath. [24-Parganas Rural North (Non-Muhammadan).]
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 Chaudhury, Maulvi Saiyed Abdur Rob. [Faridpur South (Muhammadan).]
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 Chowdhury, Maulvi Fazlal Karim. [Bakarganj North (Muhammadan).]
 Chunder, Mr. Nirmal Chandra. [Calcutta North Central (Non-Muhammadan).]
 Cohen, Mr. D. J. (Nominated Non-official.)
 Cooper, Mr. C. G. (Indian Jute Mills Association.)
 Corcoran, Mr. B. J. [Dacca and Chittagong (European).]
 Crawford, Mr. T. C. (Indian Tea Association.)

D

Das, Babu Charu Chandra. (Nominated Non-official.)
 Das, Dr. Mohini Mohan. [Faridpur South (Non-Muhammadan).]
 Das, Rai Bahadur Amar Nath. (Nominated Official.)
 Das Gupta, Dr. J. M. [Bogra cum Pabna (Non-Muhammadan).]
 Datta, Babu Akhil Chandra. [Tippera (Non-Muhammadan).]
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 Davie, Mr. J. Couper. (Calcutta Trades Association.)
 De, Mr. K. C., C.I.E. (Nominated Official.)
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 Drummond, Mr. J. G. (Nominated Official.)
 Dutt, Mr. G. S. (Nominated Official.)

F

Faroqui, Khan Bahadur K. G. M. (Nominated Non-official.)
 Forrester, Mr. J. Campbell. [Presidency and Burdwan (European).]

G

Gafur, Maulvi Abdul. [Pabna (Muhammadan).]
 Ganguly, Babu Khagendra Nath. [Howrah Municipal (Non-Muhammadan).]
 Ghuznavi, Hadji Mr. A. K. Abu Ahmed Khan. [Mymensingh West (Muhammadan).]
 Goenka, Rai Bahadur Badridas. (Bengal Mutwari Association.)
 Guha, Mr. P. N. (Nominated Non-official.)

ALPHABETICAL LIST OF MEMBERS.

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H

- Haldar, Mr. S. N. [Calcutta South (Non-Muhammadan).]
Haq, Khan Bahadur Kazi Zahirul. [Dacca East Rural (Muhammadan).]
Haq, Shah Syed Emdadul. [Tippera (Muhammadan).]
Heard, Major-General Richard, C.I.E., M.D., K.H.S., I.M.S. (Nominated Official.)
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Hoque, Maulvi Sayedul. [Noakhali (Muhammadan).]
Hossain, Nawab Musharruf, Khan Bahadur. [Malda *cum* Jalpaiguri (Muhammadan).]
Hossain, Maulvi Wahed. [Barrackpore Municipal (Muhammadan).]
Huq, Maulvi A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Huq, Maulvi Ekramul. [Murshidabad (Muhammadan).]
Huq, Mr. Mahbulul. [24-Parganas Municipal (Muhammadan).]

J

- James, Mr. F. E., O.B.E. [Presidency and Burdwan (European).]
Jennaway, Mr. J. H. (Indian Mining Association.)
Joardar, Maulvi Aftab Hossain. [Nadia (Muhammadan).]

K

- Khaitan, Babu Debi Prasad. (Nominated Non-official.)
Khan, Babu Debendra Lal. [Midnapore North (Non-Muhammadan).]
Khan, Maulvi Abdur Raschid. [Noakhali (Muhammadan).]
Khan, Maulvi Amanat. [Chittagong (Muhammadan).]
Khan, Maulvi Mahi Uddin. [Rangpur East (Muhammadan).]

L

- Lal, Mahammad, Haji. [Rajshahi South (Muhammadan).]
Law, Raja Reshee Case, C.I.E. (Bengal National Chamber of Commerce.)
Lindsay, Mr. J. H., I.C.S. (Nominated Official.)

M

- Muhammad, Maulvi Basar. [Rangpur West (Muhammadan).]
Maity, Babu Mahendra Nath. [Midnapore South (Non-Muhammadan).]
Martin, Mr. O. M., I.C.S. (Nominated Official.)
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McKenzie, Mr. D. P. (Bengal Chamber of Commerce.)
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Mitra, Babu Satyendra Chandra. [Noakhali (Non-Muhammadan).]

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 Mukerji, Mr. S. C. (Nominated Non-official.)
 Mumin, Khan Bahadur Md. Abdul. (Expert, nominated.)

N

Nandy, Maharaj Kumar Sris Chandra. [Murshidabad (Non-Muhammadian).]
 Nasker, Babu Hem Chandra. [24-Parganas Rural Central (Non-Muhammadian).]
 Nazimuddin, Khaje. [Bakarganj South (Muhammadian).]
 Neogi, Babu Manmohon. [Mymensingh West (Non-Muhammadian).]

O

Onten, Mr. E. F. (Nominated Official.)

P

Pahlowan, Maulvi Md. Abdul Jubbar. [Mymensingh West (Muhammadian).]
 Patterson, Mr. D. C. (Nominated Official.)
 Philip, Mr. J. Y. (Bengal Chamber of Commerce.)

Q

Quader, Maulvi Abdul. [Jessore South (Muhammadian).]

R

Rahim, Sir Abd-ur, K.C.S.I. [Hooghly *cum* Howrah Municipal (Muhammadian).]
 Rahman, Mr. A. F. (Dacca University.)
 Raikat, Mr. Prasanna Deb. [Jalpaiguri (Non-Muhammadian).]
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 Ray, Dr. Kumud Sankar. [Faridpur North (Non-Muhammadian).]
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 Ray Chaudhuri, Mr. E. C. (Nominated Non-official.)
 Ray Chaudhuri, Raja Manmatha Nath, of Santosh. (Dacca Landholders.)

ALPHABETICAL LIST OF MEMBERS.

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Boy, Babu Manmatha Nath. [Howrah Rural (Non-Muhammadian).]
Roy, Babu Satcowripati. [Calcutta North-West (Non-Muhammadian).]
Roy, Dr. Bidhan Chandra. [24-Parganas Municipal North (Non-Muhammadian).]
Roy, Mr. D. N. [Jessore North (Non-Muhammadian).]
Roy, Mr. Kiran Sankar. [Dacca Rural (Non-Muhammadian).]
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Roy, Mr. Tarit Bhusan. (Bengal Mahajan Sabha.)
Roy, Raja Maniloll Singh, C.I.E., of Chakdighi. [Burdwan (Non-Muhammadian).]
Roy Chaudhuri, Babu Sailaja Nath. [Khulna (Non-Muhammadian).]
Roy Choudhuri, Rai Bahadur Satyendra Nath. [Bakarganj South (Non-Muhammadian).]

S

Salam, Khan Bahadur Maulvi Abdus. [Jessore North (Muhammadian).]
Sarkar, Babu Hemanta Kumar. [Nadia (Non-Muhammadian).]
Sarkar, Maulvi Allah Buksh. [Dacca City (Muhammadian).]
Sarker, Babu Naliniranjan. [Mymensingh East (Non-Muhammadian).]
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Sen (Gupta), Mr. J. M. [Chittagong (Non-Muhammadian).]
Simpson, Mr. J. W. A. (Indian Jute Mills Association.)
Singha, Mr. Arun Chandra. (Chittagong Landholders.)
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Stephenson, the Hon'ble Sir Hugh, K.C.I.E., C.S.I. (Member, Executive Council.)
***Suhrawardy, Dr. A.** [24-Parganas Rural (Muhammadian).]
Suhrawardy, Mr. Huseyn Shaheed. [Calcutta South (Muhammadian).]

T

Tarafdar, Maulvi Rajib Uddin. [Bogra Muhammadian].
Travers, Mr. W. L., C.I.E., O.B.E. [Rajshahi (European).]

V

Villiers, Mr. Edward. [Presidency and Burdwan (European).]

W

Walker, Mr. R. L., I.C.S. (Nominated Official.)
Wilson, Mr. R. B., C.I.E. (Bengal Chamber of Commerce.)

Y

Yasin, Maulvi Muhammad. [Burdwan Division North (Muhammadian).]

* Deputy President of the Bengal Legislative Council.

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS.

(Official Report of the Twenty-first Session.)

VOLUME XXI.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

The Council met in the Council Chamber in the Town Hall, Calcutta, on Monday, the 17th May, 1926, at 3 P.M.

Present:

The Hon'ble the President (Kumar SHIB SHEKHARESWAR RAY) in the Chair, the four Hon'ble Members of the Executive Council and 108 nominated and elected members.

Oath or Affirmation.

The following members made an oath or affirmation of their allegiance to the Crown:—

Mr. R. L. WALKER.

Mr. O. M. MARTIN.

Babu ANILBARAN RAY.

Mr. D. P. MCKENZIE.

Mr. J. COUPER DAVIE.

Panel of Chairmen.

Mr. PRESIDENT: In accordance with the provisions of Rule 3 of the Bengal Legislative Council Rules, 1920, I nominate the following members of the Council to form a panel of four Chairmen for the ensuing session, viz:—

Babu JATINDRA NATH BASU.

Mr. W. L. TRAVERS.

Maulvi EKRAMUL HUG.

Raja MANMATHA NATH RAY CHAUDHURI of Santosh.

Unless otherwise arranged, the senior member among them present in the above order named will preside over the deliberations of this Council in my absence and in the absence of the Deputy President.

At this stage the Assistant Secretary to the Council announced to the Hon'ble the President that His Excellency the Governor was without.

The Hon'ble the President then left his seat on the *dais* and met His Excellency at the head of the staircase. His Excellency then entered the Council Chamber with the Hon'ble the President, and, at the request of the Hon'ble the President, took his seat in the Presidential Chair, the Hon'ble the President being seated on His Excellency's right.

His Excellency the Governor's address.

GENTLEMEN—I have summoned you at short notice and at an unusual season to discuss an emergency measure which will be the sole business of this special session and to hear from the Government an explanation of the circumstances which have rendered this measure necessary. I have come to address you in person because the powers which we are asking you to entrust to the Executive are such as can only be justified by very exceptional circumstances and you are entitled to hear on the authority of the head of the Government what those circumstances are. The events which have taken place in Calcutta during the last six weeks must be so fresh in the minds of all of you as to need no reminder from me, but I am obliged to review them briefly in order to justify the action which the Government has taken and is now taking to deal with the situation. There has been much discussion, both private and public, of those events—that was natural enough—much criticism of the Government both for what it did and for what it left undone—that too perhaps was equally to be expected, but up to now there has been no justification of the measures we have taken. We have been obliged to keep silent as we have been too much occupied in restoring order to concern ourselves with answering criticisms. But we have a right to be heard and you too are entitled to hear the case of the Government before you express your opinions upon the Bill which you have met to consider.

Let me remind you of the criticisms which have been brought against us.

First we were accused of having failed to anticipate the riots which broke out in Calcutta at the beginning of April or to appreciate their gravity.

all the police reserves and it became necessary to call out the military. In the next few days there were actually very few occasions on which it was necessary to disperse the mob. The disturbances took the form of looting and isolated assaults; the unruly element almost immediately dispersed as soon as the police or the military appeared. There was absolutely no justification either in the first or the second phase of the riots for any greater demonstration of military force; indiscriminate shooting of innocent people, because the lawless acts of a few, would have been a crime. I entirely approve the discretion and restraint displayed by those on the spot in circumstances of great difficulty and the criticism that our action was not more drastic in those first days is perhaps the highest praise that can be bestowed upon the Commissioner of Police and those in authority under him. The thanks of the Government and of the citizens of Calcutta are also due to the military authorities who placed their troops so readily at the disposal of the civil power and who allowed them to remain on mere police duty some time after all actual rioting had ceased in order to restore confidence. This confidence would probably have come at an earlier date but for the fact that a Hindu and a Muhammadan festival occurred on April 13 and 14, respectively, and led to a great uneasiness on the part of both communities. After these festivals had passed off quietly business resumed its normal course and there was no apparent reason to anticipate any recurrence of these disturbances then, but not till then, the troops were withdrawn, but police pickets were still kept on the streets.

With regard to the charges brought against the Hindu police in the first riots I have only this to say that every well-supported accusation will be fully investigated and this would have been done by this time had not the later riots intervened and occupied the whole time of the Commissioner of Police. I cannot of course claim that every member of the Police Force is able to shed all human sympathies and emotions when he joins the force, or deny that individual constables may have allowed their sympathy with their co-religionists to interfere with their duty. In fact four constables have been dismissed from the force for having taken part in the looting of Muhammadan property. There will be no screening of individuals who are proved to have failed in their duty. But with policemen as with soldiers we do claim that the discipline of their service is sufficient to protect them from a general suspicion of partiality, and I do not admit that the discipline of the whole force was found wanting in the recent riots. I cannot too strongly deprecate the general and unsupported charges which have been made and which only tend to accentuate communal bitterness. Charges of the gravest character have in fact been submitted to me in writing unsupported by evidence which can be tested, and based on no more authority than such vague phrases as "if my information is

correct," "I am told," "it is said," "a Muhammadan student reports," etc. If Hindu police officers are to be mistrusted by Muhammadans and Muhammadan officers are to be mistrusted by Hindus, the only conclusion we should be forced to is that Indian police cannot be employed to keep order in India—a conclusion which I absolutely refuse to accept.

Within a week of the withdrawal of the military the disorder broke out again without any sort of adequate cause. The police adopted the same tactics as before, picketing the main roads and crossings and employing a regular system of motor and foot patrols. Although there were clashes of mobs of the two communities the police were competent to disperse them. There was no organised disturbance such as to necessitate the assistance of a military force beyond the armoured cars. There was only one occasion of serious firing when an armoured car was attacked and there was no justification for the declaration of martial law or for the use of a military force to deal with the disturbance. An ugly feature of these second riots was a series of brutal and cowardly murders of individuals and no amount of military force could have prevented these.

These murders were rendered possible by the existence in the city of a class of hooligans belonging to both communities to whom violent crime was not abhorrent. To the *goonda* element which exists in the city at all times and which the police are engaged in clearing out by the slow but effective provisions of the Goonda Act a new element has recently been added arising in the first instance out of the growing tension between the Hindu and Moslem communities and accentuated by the panic created by the first riots. Both sides have imported men from upcountry both for their individual protection and for the strengthening of their communal forces. That has been the chief cause of the recent riots and that still constitutes the chief menace to the peace of Calcutta. So long as that element remains there can be no tranquillity. If it is not quickly removed it will go on increasing. If individuals are allowed to surround themselves with unauthorised guardians and if the commission of one outrage is to be claimed as justification for the commission of another by way of retaliation, then the authorised guardians of the law cannot be responsible for maintaining order. The problem, therefore, before us is how are we most effectively to rid Calcutta of this dangerous element imported from upcountry and arm the regular police force of the city with sufficient powers to protect the lives and property of defenceless citizens. The demand that citizens should be allowed to arm themselves and become responsible for their own defence leads straight to the conditions of the jungle and the issue before you therefore is between the rule of law by which civilised communities are governed or the rule of claw by which the beasts preserve their lives. This brings me to the last criticism we have to meet and the case for the Bill you have met to discuss.

The charge is that we have already the power to deal with these imported hooligans that we have not used them and that if we use them vigorously there would be no need for the summary powers we are asking for. The charge is based on ignorance both of the problem and of the existing law. The problem is not merely a *goonda* problem and it cannot be solved by the application of the Goonda Act alone. The criminal element in Calcutta known as *goondas* has figured in the recent riots but as I have already pointed out, the danger from that element has been greatly increased by the recent importation of what I can only describe as unauthorised guardians or communal champions. Many of these men are not *goondas* at all but their presence is a menace to the peace of the city and many of them have taken part in the recent outrages. There is no provision of the existing law by which we can get rid of them and in times of rioting their presence greatly increases the danger of disorder. If this Bill is passed it will be possible for us to deal with this new danger and thereby lessen the chances of a fresh outbreak. But remember that the powers of the Bill are limited to a state of emergency and in no way affect the normal establishment of *durums* or men from other parts of India who have a legitimate occupation in Calcutta. It is generally agreed that the recent disturbers of the peace did not belong to the normal population of Calcutta but were strangers in our midst. We have already arrested a large number of those persons against whom this Bill is directed and have induced most of them to leave Calcutta. If the Bill is not passed there will be nothing to prevent the return of these bad characters and those now in custody will have to be released.

There are some who think that all is now quiet, that the danger is past, and that as the powers of the Government to bring about peace were sufficient there is no need for the powers we are asking for. It was only the knowledge that we intended to ask for these powers, it was only the belief that they would be given to us, that have enabled us to secure the degree of tranquillity which we have reached. Let me explain.

In spite of the great strain on the police during the last few weeks and the increased picketing of the streets which they have had to undertake, they have systematically raided the known haunts of the criminal class. They have arrested not only *goondas* against whom orders under the Goonda Act can in due course be executed, but many others whom they had reason to suspect had come to Calcutta recently for no worthy purpose. Being powerless to deal with such men after their arrest the police applied to the Government for the special powers which we are now asking you to provide in this Bill. In the belief that these would be granted the campaign against the hooligans has been continued up to now and a large

number of them who could not be dealt with under the Goonda Act were persuaded to leave Calcutta before the new powers came into existence, while a still larger number of the smaller fry left Calcutta in apprehension that measures were being taken against them. Unless this Bill becomes law there is nothing to prevent those men returning, and if they do return the police have no means of dealing with them. In addition to those who have left there still remains in Calcutta a large number of such men who cannot be dealt with effectively under the Goonda Act and who, though at present disorganised, constitute a very real danger in the event of any further recrudescence of the disturbances.

Such is the case for the Bill which you have been summoned to consider. It is for you to say how far the emergency is sufficiently serious to justify the remedy and how far the remedy is adequate to meet the emergency. Since I came to Calcutta I have had many personal interviews with men of all political parties, both Hindu and Muhammadan; every one of them has described the imported hooligan element as responsible for the recent troubles and every one has begged me to arm Government with the necessary powers to deal with it. There was an absolute consensus of opinion on this matter while public anxiety still prevailed, and I beg you, now that that anxiety has for the moment been relieved, not to misjudge the situation and not to be lulled into a false sense of security. You owe the present quiet to the expectation of this Bill. It can only be maintained and increased by the passage of this Bill. If you reject it you will be depriving yourselves of the only guarantee against a recurrence of the ugly scenes which have recently brought so grievous a reproach upon the fair name of this great city.

I have only one more word to say in conclusion. You may accept everything I have said so far, you may admit the evil, approve the diagnosis and acknowledge the suitability of the remedy and yet hesitate to arm the Executive with the powers we are asking for, unless we can satisfy you that having secured them for one purpose they will not be used for another. It is therefore incumbent upon us to show that we have limited the use of these emergency powers to an emergency to which they are applicable.

First, then, I would ask you to note that we are not asking for permanent powers to be used in normal times, but only for use in an emergency which is limited to three months. Although therefore the powers will be exercised by the Commissioner of Police, they cannot be so exercised whenever he pleases but only with the authority of the Government after the latter has declared an emergency to exist and has published the reasons for such a declaration. Even then every order which he issues is subject to the control of the Government. It is a mistake therefore to describe these as powers given to

the police, they are in fact powers given to the local Government. There is a complete safeguard that the powers of the Bill shall only be used in an emergency.

The decision as to whether or not an emergency exists is of necessity left to the Executive since it is essentially an executive responsibility. Lest any one should be afraid that these powers may be abused I would point out that in Bombay the police have been empowered by Section 27 of the City of Bombay Police Act, 1902, not merely in an emergency but at any time, to remove persons whose presence in the town causes or is thought likely to cause danger or alarm—a more general power than we are asking for here, and one which has been in force for the last 24 years without any suggestion that it has ever been abused. In this case fortunately no political considerations are involved nor does this Bill raise any communal issues. It will be possible, therefore, I hope, for you to discuss it without any heat or prejudice. The safety and tranquillity of Calcutta is the only issue and I trust that you will debate it with a due sense of responsibility. I now leave that issue in your hands in the confident expectation that you will give to it the careful attention which the importance of the subject deserves and that your decision will reflect the calm judgment of responsible citizens.

His Excellency the Governor then left the Council, preceded by the Hon'ble the President.

[On the return of the Hon'ble the President.]

Government Business.

Government Bills.

The Presidency Area (Emergency) Security Bill, 1928.

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Sir Hugh Stephenson): I rise to introduce a Bill for safeguarding life and property in the Presidency area in times of emergency.

The Secretary then read the title of the Bill.

(The Hon'ble Sir Hugh Stephenson was then called to move the motion that the Bill be taken into consideration.)

Raj HARENANATH CHAUDHURI: On a point of order, Sir. Under Section 51 of the Council Manual the Hon'ble Sir Hugh Stephenson cannot move the second motion now because the Bill has not been made available to us for seven days.

Mr. PRESIDENT: The Bill was published in the *Calcutta Gazette* on Saturday before last and I understand that the publication in the Gazette implies that the matter was placed before the public. To-day is Monday and so I think that members have had ample time for the purposes of the section to which Rai Harendranath Chaudhuri is referring now.

Rai HARENDRANATH CHAUDHURI: Section 51 does not contemplate the publication of the Bill in the *Calcutta Gazette*. This section simply provides for the circulation of the Bill to the Council members and it says that the Bill should be available to the members seven days before the motion is made.

Mr. PRESIDENT: Perhaps the hon'ble member is aware that the *Calcutta Gazette* is circulated to all members of the Council and the publication in the Gazette implies that the matter is circulated on the day in which it was so published. The Bill was published in the Gazette on Saturday before last and even the members residing so far away as Chittagong have had ample time to study the Bill in the Gazette. They have, therefore, had six days' notice and if any member takes exception for only one day I may tell him that I would consider such objection as frivolous, and if the hon'ble member persists in his point of order then I will suspend the Standing Order and allow the motion to be made.

Mr. D. N. ROY: May I ask under what section you will suspend the Standing Order?

Mr. PRESIDENT: I am afraid no member in this House can put posers like that to the President. The mere asking of a question is not raising a point of order.

Rai HARENDRANATH CHAUDHURI: On a point of order, Sir. Section 51, I submit, should be interpreted strictly. The section is mandatory. It says that "it shall be circulated." There is no question of raising any objection on frivolous grounds. The only power that is given to the President is that if he sees fit he can suspend the rule. But the section leaves no room for interpreting any objection as frivolous.

Mr. PRESIDENT: I am afraid the hon'ble member has taken exception to my remark. The hon'ble member must understand that even when I do not choose to give any reasons there are some reasonings going on in my mind. I hope the hon'ble member will not take exception to my remark.

The Hon'ble Sir HUGH STEPHENSON: I move that the Bill be taken into consideration.

In his speech His Excellency has given a resumé of the circumstances which have lead to the introduction of this Bill. I do not propose to enter into those circumstances or to discuss the reasons of the riots that have been going on for the last six weeks. I propose to confine myself entirely to this Bill.

In the first place I have to explain the necessity for these powers. The characteristic of the first phase of the riot was the desecration of holy places and looting and also a certain amount of attacks on isolated individuals. In the second outbreak the serious feature was the murder of individuals of both communities mostly by stabbing or by the use of heavy *lathis* or iron bars—brutal murders. It was recognised on all hands that those abnormal crimes—although they were the outcome of intense bitterness of communal spirit in both communities and were to some extent condoned by both communities on the ground that they were reprisals—were actually the work of the classes to whom crime is a second nature and who have no shrinking from violence, in short the *goonda* class.

The *goondas*' part in the rioting has not only been to take advantage of any opportunities for their own personal gain but also to form the nucleus of the opposing communal forces. It is not necessary for me to go into the question of exactly how the *goondas* profited by the rioting. In the second phase of the riot, there was very little looting. None of persons murdered had their property stolen most of them had no property on them: but it is admitted on all sides that it was this class this *goonda* class that kept alive the riot and carried out the murders. Now we may never get rid of all rioting altogether in Calcutta from one cause or another. But if we can get rid of the *goondas* and of the potential *goondas* who come from the same class and who in times of violent excitement may be lead into taking the same action, we should get rid of the worse feature of the riots and should do a great deal towards limiting their extent and duration. Most of these classes in Calcutta are upcountrymen and the powers asked for are to remove them from Calcutta and keep them away long enough to prevent their stirring up the riot again when they come back. Our experience in the recent riots has entirely borne out our previous experiences. We have kept up in the latter phase of the riots a steady pressure upon this class of men and from the moment this pressure was effectively felt these murderous outrages ceased. The communal bitterness is still there and he would be a bold man who said that the emergency was over. The overt acts have ceased and I have letters from members of this Council who agree with Government in attributing this to the action taken against this class. In fact, on the occasions of both the riots I have interviewed a large number of men of all shades of opinion and all classes of Calcutta, and all of them and also the newspapers insisted on Government taking drastic action.

All those who came to see me urged that Government should arm themselves with all the powers that they consider necessary, and those very papers which now—when things are quiet, are accusing Government of seeking to obtain powers for some sinister purpose were insistent during the time of the disturbance that those very powers should be ruthlessly used to the utmost extent.

The argument is brought forward, however, that Government have already sufficient powers and that therefore they do not need any more. Reference is made to the Goonda Act. We are constantly accused of not using the Goonda Act. It is not necessary to deal with the question of supervision of bad characters in Calcutta or to discuss the ordinary preventive sections of the law, because this House has already decided that ordinary preventive sections are not sufficient in Calcutta for that purpose. Many of the members present here were present during the debate on the Goonda Act. They will remember what the intention of the Goonda Act was. It was definitely brought in to reduce crime and to protect life and property in ordinary times in Calcutta. We have used it and we have used it successfully. Eighty-eight men have been externed under the Goonda Act and lest a communal question be brought as regards the division of criminals between the communities I may say that of these 45 are Hindus and 43 Muhammadans and 10 cases are still pending. This Act has brought down crime in Calcutta and I think it has been very effective. The Goonda Act was brought in force in the middle of 1923. Taking the class of crimes which the Act intended to deal, they may be put into three classes—robbery, burglary and theft. In 1922 there were 122 cases of robbery in Calcutta. These cases have been steadily falling off from year to year till last year the number came down to 40. In 1922 there were 1,501 cases of burglary and in 1925 the number was 736 which is just half. In 1922 there were 5,654 cases of theft and in 1925, 4,063. Therefore, Sir, I claim that the Goonda Act has proved its use and it has served the purpose for which it was intended. But anybody who reads the Act will see that it is not suitable for use in an emergency. The procedure is cumbrous. Before a man can be dealt with under the Goonda Act the Commissioner of Police has to write up his history from his youth up, when he was born, how he passed his youth, how he has been conducting himself, how he has been earning his livelihood, how many times he has been convicted and to get all the papers in that connection and then he has to send them to me. When the case comes up to me I go through all these and if I think that a strong case has been made out I sanction the issue of a warrant. The warrant is then issued—the man is arrested and he is then placed before Judges who examine the papers. The Judges may order further inquiries for further information, if they do not find the papers altogether satisfactory. This is a procedure which is of no use in an emergency. Apart from this the

Goonda Act is limited in its scope. There is a very great deal of looseness in the use of the term *goonda*. During the recent rioting I have found that a *goonda* generally means one belonging to the opposite religion. There were at least half a dozen different interpretations to be found of the word *goonda* beginning from the real Goonda Act down to the man of loose character. Those who were here when the Act was passed will remember that the Council declined to define the word *goonda* but it was definitely said that there was no doubt as to what a *goonda* was. If you will read the debates on the Goonda Bill, you will find that the one essential on which stress was laid by every one was that in the compound of the *goonda* there must be an element of personal violence. Well, Sir, when the Goonda Act came into force we had to direct its use and we scrupulously followed the directions of this Council. When the first cases came up we ruled out any cases where there was not that element of personal violence. The men who had a dozen convictions have never been dealt with under the Goonda Act when there is no element of violence and it is this Council that has placed that limitation on the use of the Goonda Act and Government are only carrying out what were the undoubted instructions of the Council as to the use to which the Act would be put.

Government and the Judges could have dealt with a few more cases within the limit of the Goonda Act if they had disregarded the wishes of the Council and stretched the Act; but as I have said we have scrupulously carried out the wishes of the Council and the very fact that we refuse to stretch the Act and prefer to come to this Council to ask for powers—fresh powers—for use only in cases of emergency, is surely the best guarantee that we shall not abuse these powers.

Then, Sir, as to the classes of persons against whom it is intended to use these powers—firstly, the leaders of the gangs of *goondas*. These men may have not themselves taken part in violent crimes, but they employ men who in their spare time take part in violence, the leaders may not themselves ever have been convicted of violent crimes, but at the same time on the occurrence of a disturbance in Calcutta these men have at their back an army disciplined and ready to carry out any order and they are men who are prepared to go to any lengths required. Then, Sir, the second classes are members of the gang who have not themselves been convicted of any violent crime and were therefore ruled out from the Goonda Act. Although they may have been convicted there is no evidence which could be placed before the Judges to show that they took part in any violent crimes. The third category consists of a very large number of registered bad characters in Calcutta. I have seen in the papers reference to a mystical number 1,000. Well, Sir, the number of bad characters registered in all the thanas in Calcutta amounts to about 1,000. These men may have been convicted

of all sorts of crimes but they do not necessarily come under the purview of the Goonda Act. In times of disturbance, however, they are a dangerous element. Then, the fourth category consists of new comers to the city who cannot prove that they have come to Calcutta for any lawful purpose. As an instance of that class I may, perhaps, give two cases of men arrested in the course of these raids. The first one came down from Peshawar. He said that he did not know the man in whose house he was arrested. He had been brought there by a *gharrywalla* who said that he was a good man. He said that he had come down to Calcutta for chest ailments. He was examined but nothing was found wrong with his chest. The second was arrested at the same time and he had been in Calcutta for less than three days. He said that he had come down to Calcutta to trade in shawls. His total capital was Rs. 8. Well, Sir, that is the class of men that I think it is most dangerous to leave at large during the time of riots and this Act only applies to times of emergency. Then, Sir, the fifth category is of up-country men who actually have been convicted for offences committed during the actual riots. Surely, if a man had been convicted and sentenced to a week's imprisonment for being in possession of stolen property, it is not right to leave him in Calcutta and allow him to collect more stolen property. Then, Sir, the last class is of a different category. This class comprises smugglers and the keepers of gambling dens. The danger of these men is that they cannot carry on their unlawful avocations without the help of men of bad and desperate character. They are in the same position as the leaders of the *goonda* gangs and when disturbances are rife in Calcutta, they have at their beck and call a considerable number of bad characters who could be turned loose at the direction of their masters. They too ought to be brought under the Act. These are the classes of men against whom we want these powers and I cannot conceive that the Council would wish to extricate from the use of the powers any one of these classes of men. Now, Sir, they are practically—all of them up-country men. Then, what are the powers we ask for. We ask that when there are disturbances actually occurring in Calcutta we shall be empowered to remove summarily from Calcutta the men responsible for the worst excesses and who prolong the period of disorder. Now, these men are of the same type as the men we deal with under the Goonda Act. Whereas under the Goonda Act we have power to extern a man for 10, 15, 20 years, under the proposed Act we want to extern or keep him out of Calcutta for two years only. The power we ask for has been possessed by the Commissioner of Police, Bombay, for 25 years as an ordinary and not an emergency power. There has been no complaint of its abuse and there has been no agitation for its cancellation.

Well, Sir, coming to the practical application of these powers, it is not intended that these powers shall in any way be exercised by the

thana police; they will be exercised through the Detective Department and the intention is that the Deputy Commissioner of the Northern Town and the Deputy Commissioner of the Southern Town will send up cases under the new powers. They will put special officers on this duty and the reports of the special officers will come through the Deputy Commissioner. The reports of the Deputy Commissioners will come through the Deputy Commissioner of the Detective Department, who will check them, and no officer will be able to send any report to the Commissioner of Police direct. All reports will come through this bottle neck. So far as my experience from these riots goes the one department which enjoys the confidence of all my visitors is the Detective Department.

Well, Sir, ordinarily when the Act is on the Statute Book and an emergency arises all the information will have been collected during the time when things are normal and the police cannot use these powers, but on the occurrence of a disturbance the Commissioner of Police will know what the dangerous elements are and he will put them out of Calcutta in order to check the riots at once. Then he will only have to deal with the vultures that come round the corpse and if it is known that he has powers to deal with these men whenever a disturbance breaks out these up-country men will think twice before they come to Calcutta. Sir, it is objected that the proof of the pudding is in the eating. It is said you have stopped the riots and therefore you do not want any more powers. It is said the emergency is over. As long as there is this powder-magazine and there are a great number of communal sparks ready to set it off, you cannot say that the emergency is over. As His Excellency has told you it is because of the anticipation that we shall be armed with these powers the outrages have stopped. The Detective Department have in the course of their raids arrested 102 men; the history sheets of most of them were known to the police. Most of them are men whose character is well-known to the police; in some cases they are new comers found in well-known haunts of *goondas* such men as I instanced just now. Well, Sir, the arrest of these men, many of whom had considered themselves absolutely immune under the law, disorganised the whole *goonda* class. I am told that looking at the chart of crimes during these riots you can tell from the fact that the riots ceased in a particular area on a particular date when raids were made there. Well, Sir, many of the leaders whom we have not arrested have taken fright at the arrest of these men and have left, and as His Excellency has told you, a very large number of the smaller fry—the members of the ordinary *goonda* class—have left Calcutta for fear that we are arming ourselves with powers to arrest them. Out of these 102 men 35 have been sent up either under the Goonda Act or under the specific sections of the Indian Penal Code. They were wanted offenders in some cases and in others they were men who were

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recognised as being present or taking part in the riots. Another 43 of them, men of importance in the *goonda* world, said that they would leave Calcutta rather than run the risk of being dealt with under the Goonda Act or under the powers which they anticipated we would take. If this Act is passed these men will not return for a considerable time; if they do we can deal with them under the terms of the emergency measure. And if an emergency arises again, we shall be forearmed—the police will be able to act, to remove the worst offenders at once. If the Act is not passed, these men will know that the police have no power to deal with them and there will be nothing to prevent all these men who are under arrest and the others who have fled, from returning at once, and I think it will not be a hazardous guess that the majority of them will return. If they do, I do not think I should be considered pessimistic if I say that there is at least a probability of a recrudescence of rioting arising out of much the same circumstances as led to the recrudescence on the second occasion.

Mr. PRESIDENT: The next three items are analogous. One of them will be taken as the substantive motion and the others will be deemed to be withdrawn, provided, of course, the one chosen is moved. If it is not, the others may be moved. I choose No. 3 as being the most comprehensive one.

Mr. J. M. SEN GUPTA: Might I, Sir, inquire whether you would allow us to oppose the motion which has just been moved?

Mr. PRESIDENT: Oh yes.

Babu SARAT CHANDRA BASU: May I rise to a point of order. I have not been able to understand what is the motion now before the House.

Mr. PRESIDENT: The question now before the House is that the Bill be taken into consideration, and the Hon'ble Member has already moved that motion. Now I come to the amendments.

Babu SARAT CHANDRA BASU: Before the amendments are gone into, may I be permitted to criticise the general aspect of the Bill?

Mr. PRESIDENT: I may point out that these are general motions and so after these have been dealt with you can discuss the general aspect of the Bill.

(At this stage the Council was adjourned for 10 minutes.)

(After the adjournment.)

Babu MANMATHA NATH ROY: On a point of order, Sir. Might I know at what stage this particular motion, which has been moved by Sir Hugh Stephenson, will be voted upon?

Mr. PRESIDENT: After the amendment, which is rather of a substantive character, is disposed of. When it has been voted upon and lost, the main motion will be put.

The following motion was called but not moved:—

Babu BEJOY KRISHNA BOSE to move that the Bill be circulated for the purpose of eliciting opinion thereon before the next session of the Council.

Babu AMULYA DHONE ADDY: I move that this Bill be circulated for the purpose of eliciting opinion thereon within one month from this date.

I admit that a few days ago there was a great emergency for such a measure as this. I am one of those who represented even to His Excellency the Governor by letter as well as by telegram that innocent citizens of Calcutta were being stabbed to death on public streets even in broad day-light. There was a great panic in every part of Calcutta. All the shops in the affected areas were closed. Indian trade, commerce and industry were seriously affected. For the time being Calcutta was not under British *raj*, of which I am proud, but under the Goonda *raj*. Extraordinary circumstances require extraordinary measures, but with the presence of our esteemed friend the Hon'ble Member in charge, Sir Hugh Stephenson, and specially His Excellency the Governor and also through the exertion of the leading members of the Hindu and Muhammadan communities, specially the Nawab Bahadur of Murshidabad and the Hon'ble Maharajadhiraja Bahadur of Burdwan, peace has been restored and the normal conditions of Calcutta have also been restored. The question is as to whether a legislation of the nature as drafted in this Bill should be resorted to under the present circumstances. Had an Ordinance being enacted as was done during the outbreak of last war, nobody would have objected to it. That Ordinance would have lasted for six months only, but it is proposed to have a measure now which will be a permanent one. Therefore, we should think twice before we come to a decision. It was only eight days ago that the Bill has been published in the *Calcutta Gazette Extraordinary*. No public opinion has been called for. I remember, Sir, even in the case of Bengal Highways Bill the opinion of all the Magistrates and District Boards were asked for, but I am extremely sorry to find that the opinion of even a single public body and specially of the Corporation of Calcutta has not been asked for in connection with this Bill.

Under this Bill, the Commissioner of Police is going to be authorised to deport a person, who in his opinion is committing or even likely to commit an offence under clause 4. Under this Bill there will be no enquiry whatever by judicial officer and the decision of the Commissioner of Police is final. I beg to ask as to whether this

is in accordance with the British sense of justice. I beg to ask as to whether the accuser should be the Judge, the complainant should be allowed to decide his own complaint. Is it advisable to deport a person from one province to another without giving him an opportunity to defend himself, without a trial before a Court or even without an enquiry by a judicial officer? Sir, even under the Act of 1915 for the Defence of India there is the provision of trial by three Commissioners. Under Act XIV of 1908 of the Supreme Legislative Council, there is the provision for trial by three High Court Judges. Under the Anarchical and Revolutionary Crimes Act of 1919 there is also a provision for trial by three High Court Judges. Even under the Goondas Act of 1923 there are two Judges to enquire and submit their report to the local Government and even under the Bengal Criminal Law Amendment Act, I mean the Ordinance Act of 1925, which was not even allowed to be introduced in this Council but was enacted into law by certification, there is a trial by two Sessions Judges, but I am really astonished to find that under this Bill there is to be no trial at all, not even an enquiry by a judicial officer; the complainant is to be the Judge and the Commissioner of Police has been allowed to deport the offender from this province to another. However, on the publication of this Bill some of the leading public bodies of Calcutta have expressed their opinion.

The Bengal National Chamber of Commerce, of which I have the honour to represent in the Council, is of opinion that this Bill should not be enacted into law unless proper safeguards are provided for minimising the chances of abuse.

Rai Ramtaran Banerjee Bahadur, who is a leading member of the Corporation and the President of the Alipore Bar Association, is of opinion that it is a panicky piece of legislation.

MR. PRESIDENT: Have these opinions which you are quoting been placed before the House?

Babu AMULYA DHONE ADDY: No, Sir.

MR. PRESIDENT: In that case you had better not refer to those opinions.

Babu AMULYA DHONE ADDY: However, Sir, from the opinions that I have gathered it appears that the public are of opinion that the Bill is a very drastic one and that there are no safeguards to protect the offenders. Even the Corporation of Calcutta has expressed the opinion that the Bill is unnecessary. I do not agree with the Corporation in their view. I am of opinion that this measure is necessary but I am of opinion that certain safeguards are absolutely necessary and, therefore, I beg to submit that we should not be in a hurry at this stage especially when peace has been restored. My opinion is

that though it is absolutely necessary to have a remedy, to have a drastic measure, still it appears to me that the remedy proposed is worse than the disease itself. What I beg to submit is that we should not come to a conclusion unless and until we are favoured with public opinion on this Bill.

Mr. PRESIDENT: Now is the time for discussion of the general principles of the Bill.

Babu MANMATHA NATH ROY: I oppose the consideration of the present Bill. We have heard His Excellency the Governor, we have also heard Sir Hugh Stephenson, but we are not convinced that any necessity for the Bill has been made out. As a member of the Swaraj party I think we owe an explanation for our presence here to-day. This Bill seems to be so monstrous that we could not keep outside the Council and we have come here to oppose the consideration of the Bill. Notwithstanding all that we have heard from His Excellency the Governor and Sir Hugh Stephenson we cannot deceive ourselves and we cannot but be convinced that this Bill has been brought forward by way of justification of the inaction of the Government in the early stages of the riot and in not dealing with the *goondas* in normal times. We have, no doubt, that the existing powers are adequate in respect of the *goondas* and His Excellency the Governor and Sir Hugh Stephenson have acknowledged that these are the people who were largely responsible for the magnitude and seriousness of the riots. We believe that the existing provisions so far as the *goondas* are concerned are wholly adequate, but they were not properly exercised and they were not exercised in time. We believe that if they had been exercised properly and in time the riots could never have assumed that seriousness or frightful magnitude. We the residents of Calcutta found the police as mute spectators during the riots. We don't know whether they could have prevented them but have not the slightest misgiving that the Goonda Act which was passed and came into operation in February 1923 was not utilised properly during the three years that it was in operation. We have no misgiving that no timely action was taken against the *goondas*. For, where would Mina Peshwari have been, that bad character, who had the courage to go to the police office with a revolver in hand and came away from there defying the police, if he had been proceeded against under the Goonda Act? Is it the case of the Government that they could not discover what and where he was? There cannot be the slightest misgiving that no action worth the name was taken against the persons whom the Goonda Act was intended to deal with. I cannot but take it as a culpable negligence on the part of Government, and the Government are largely to be blamed for the seriousness of the riots. Was not the situation such as demanded the immediate presence of His Excellency the Governor or of Sir Hugh Stephenson in the city? I shall ask the Government

to push forward with vigour the operations of the Goonda Act now—and not wait for a recrudescence of the riots, and the object put forward for this new legislation would be achieved, and there would be no necessity for any new law. A great complaint and a complaint which is rightly made against this proposed legislation is the want of safeguards. There is no safeguard against its misuse; no charge is to be framed; the accused will not be in a position to know what the charge against him is and there will be no right of appeal by the person who has the great misfortune to incur the displeasure of the police (A Voice: Almighty Police)—the almighty police—I am glad I am corrected. This Bill will open the door to blackmail. Evidence of value to the police, which is absolutely of no value outside the police wall will be frequently used. We have also the experiences of Regulation III. It will not be seriously disputed that the Regulation was originally intended for persons engaged in dangerous feuds but we all know for what purpose it is used now. This new piece of proposed legislation has been a source of panic to people. No doubt the panic of the riots has disappeared but a new panic is before the public. Pray save us from it.

Mr. E. VILLIERS: I want, Sir, to explain briefly to the House what the attitude of the European community both towards what has happened in the past and also towards this Presidency Area Security Bill which is now under discussion in this House. We Europeans in the past have so often and so emphatically voiced our dislike of the granting of extra-judicial powers to Government that it may seem strange that once again, when the question arises as to whether further powers shall be entrusted to Government that we are again going into the lobby in support of this Bill. Now, Sir, in order that I may make clear our attitude and the reasons which lie behind this attitude I shall have briefly to analyse the situation as we see it. During the time of the riots and during the period that immediately succeeded the riots there was constantly voiced a very widespread feeling that the Government had failed to do their duty in the matter of putting down the riots and were thereby indirectly responsible for a great deal of the bloodshed that ensued. In making mention of this opinion that was being voiced abroad, I am not of course referring to the irresponsible and puerile scurrilities that appeared in a certain section of the press which actually went to the length of suggesting that Government had engineered these riots with the Machiavellian aim of arrogating to themselves further and more drastic powers. As I say, I do not propose to deal with this kind of scurrilous nonsense which is beneath contempt.

I must, however, deal briefly with the more responsible criticism that was heard both at the time of the riots and thereafter. Now, Sir, if it is so that Government in fact did not deal with the situation as they might or should have done it seems to me that their conduct is

capable of one or two alternative explanations; either that the powers themselves were inadequate or that the Government had adequate powers which, for some reason best known to themselves, they declined to make use of; I propose quite briefly to examine these two alternatives.

With regard to the first one—the possible inadequacy of the existing powers as a weapon for quelling disturbances such as those we have just passed through.

I do not believe, Sir,—and in this Sir Hugh Stephenson has in part at all events agreed,—I do not believe that the powers which Government had were as inherently defective as subsequent events would lead us to suppose; I have discussed this matter at great length with members of both my own community and of others and I believe the reason for the existing powers proving themselves to be less adequate than in fact and inherently they were was because of the habit of this Council of putting a weapon of this sort into the hands of the Government with one hand and with the other so surrounding it with stipulations and safeguards as to make those powers entirely inadequate. We have seen this process over and over again; we saw it in the case of the Ordinance which the Council refused to pass save and unless it was emasculated to such an extent as to render it worse than useless; we saw it again in the case of the Goonda Act when, as Sir Hugh Stephenson has pointed out, member after member rose to his feet and amongst these Sir Provash Chunder Mitter was one of the most persistent—and said “we give you these powers provided and provided only that you strictly limit their use to certain conditions”—these conditions rendering it impossible for Government to do what they otherwise would have done, namely, in times of emergency to stretch their powers to meet emergency conditions.

Had there been in the past a more generous feeling of criticism towards Government in this Province, had there been a reasonable show of fair play in its treatment of Government, I believe Government would have been able to rise to the occasion and to have stretched the powers which lay in their hands so as to make them adequate to meet even the extraordinary conditions through which we have just passed; but you cannot have it both ways; if the House insists upon the use of its democratic powers to the extent of dictating to Government in detail what it may or may not do, it obviously cannot blame Government if it keeps within the bounds of those restrictions and refrains from going outside them.

Under more reasonable conditions we should not have been under the necessity of doing violence to our feelings in the matter of giving further extra-judicial powers to Government, and I go so far as to say that it is at the door of those ultra-cautious members of this Council that the responsibility lies for the numbers of deaths which have occurred; that and their want of trust in Government. So much then for the question whether the powers were adequate or not.

This brings me then to my second point, which is this. Granted that Government had adequate powers, why did they not use them? It would be a matter of repetition for me to answer that question myself. For the answer to the second question lies in the answer to the first; but the answer to the second question is, I believe reinforced and strengthened by the treatment meted out to ~~those~~ who in the past have taken upon themselves the responsibility of stretching their powers, actions which undoubtedly as subsequent events have proved, have resulted in the quelling of riots; and who as such have deserved well of their fellows. But have they received well? Cast your minds back and answer the question yourselves.

There is one further point on which I wish to touch. I understand, that many of our Muhammadan friends view the granting of these powers to Government with the gravest apprehension, and indeed, I, in common with many others, feel sympathy with them in these apprehensions. His Excellency this afternoon has reminded us, if, indeed, we needed reminding, that because a Hindu puts on a *lal pugree* he does not thereby shed his religion, and that because a Muhammadan takes service under Government, he does not thereby forget the teachings and traditions of Islam. Now we know that the number of Hindus to Muhammadans in the police force to-day is a very disproportionate one, and

Babu MANMATHA NATH ROY: On a point of order, Sir, is this in order?

Mr. PRESIDENT: Yes; he is discussing the general principles.

Mr. E. VILLIERS: Bearing this disproportion in mind we are bound to realise that from time to time injustices may be done—and I do not doubt that injustices have been done. I make no specific allegations, but looking at it from the ordinary general layman's point of view it seems to me that such things are bound to occur. But, Sir, I make this appeal to my Muhammadan friends; I believe that the stipulation they have in mind to-day in connection with the giving or otherwise of their support to this Bill is that greater numbers of their co-religionists should be drafted into the police; that is a matter which is obviously one entirely for the Executive to deal with. But—and this is the point I want to emphasise—it is not going to make any difference to the likelihood or otherwise of riots breaking out in Calcutta, if there are a greater number of Muhammadans in the police; granting that there has been a certain amount of oppression by Hindus against the Muhammadans, granting for the sake of argument, that there has been a certain amount of injustice and bias displayed, it would merely mean an equalisation of injustice and an equalisation of bias; it is not, therefore, a remedy for checking disorderly scenes in Calcutta. I, therefore, sincerely hope, while extending my sympathy to them in this

trouble—and I believe that it is a very real trouble—that they will keep clearly in front of them the point at issue. The only remedy is that Government should be given such powers—powers that have been denied to them in the past by this House—as will enable Government not merely to cope with the situation when it arises, but, what is vastly more important, to anticipate the trouble to a very large extent, so that they can strike when the time comes and strike with effect. That is the only point with which we have got to deal. Government consider that they must have more effective powers than those given under the Goonda Act, and much as we may dislike granting them those powers, in the circumstances, Sir, the Europeans in this Council, voicing as they do the opinion of the Europeans in this province, intend to give their support to this Bill.

Hadji Mr. A. K. ABU AHMED KHAN CHUZHNAVI: The recent riots in Calcutta which broke out on two successive occasions, with a fury and brutality quite unprecedented in their magnitude and character, scarcely leave room for doubt that more power should be given to Government to deal with an emergency of this kind should it ever recur. In the Government armoury so far, there has been only one effective weapon to deal with it and that is the Goonda Act of 1923. But, as we have been told by Sir Hugh Stephenson, unfortunately a very large number of persons of a doubtful character do not come within the purview of this Act. Further it has also been made manifest that almost all murders, assaults, and rioting have chiefly been the work of up-country hooligans and up-country carters and *durwans*, and very few Bengali Hindus have taken any part. It is, therefore, necessary that power should be given to the police to eject dangerous persons, particularly those who are not inhabitants of Bengal.

But, Sir, the disturbances have also disclosed certain features which call for careful consideration. While on the one hand, it is admitted, and rightly admitted, that the conduct of the European element in the Calcutta Police force from the Commissioner downwards has been exemplary throughout, the same cannot be said of the Indian element. About 80 to 85 per cent. of the Calcutta Police force is Hindu, and nine-tenths of the constables have been recruited from the very same class from which the carters, *durwans* and armed retainers, who have taken a prominent part in the riots, are supplied. It was an established policy of Government at the time when Sir Frederick Halliday was Commissioner of Police that in the administrative force a balance of power was to be maintained by the employment of an equal number of European, Hindu and Moslem officers, but in later years this policy has not been pursued.

The administration of the proposed Act will be largely in the hands of the police, a body in which, as at present constituted, Moslems have

scarcely any confidence. We, therefore, want an assurance from Government that within a reasonable period they will be prepared to reorganise the entire police force with a view to restoring the balance between the various communities by strengthening the European element of the Calcutta Police force and at least by equalising the proportion of Hindus and Moslems, both as regards officers and as regards the rank and file. I sincerely wish that Government will remedy the evil which has been explained by Mr. Villiers, and if this is done, Moslems will have greater confidence in the police. Then again, Sir, it would be the duty of the police to find out these dangerous persons, and, therefore, unless this reform is carried out, the Moslem community is likely to be very adversely affected by the enactment of the proposed law. The law in itself is welcome, but the *vinc quid non* is the reorganisation of the agency through which it will have to be administered.

If the Government are prepared to consider this matter, I, for one, will not have the least hesitation in giving my support to this Bill.

Further, after hearing the Hon'ble Sir Hugh Stephenson as to the nature of the safeguards that are likely to be taken it comes to this, that we have got to choose between two evils, namely, whether we are going to sit on the fence and await with impotence the recurrence of such similar riots or whether we are going to adopt this necessary evil of a further repressive measure. I for one, prefer to choose the latter with the one big proviso, namely, the reorganisation of the Calcutta Police force on the lines indicated.

Babu SARAT CHANDRA BASU: It is with feelings of deepest gratitude that we welcome any measure introduced by Government for the suppression of riots in Calcutta and for ensuring future peace and against the recurrence of such riots. When I first read the Bill it brought to my mind the historic memory of the middle of the fifteenth century when the British people came to this land as a God-send for the purpose of delivering the country from internecine war and from oppression by the strong of the weak. I have always held it in my mind that for the interests of this country the advent of the British Power has been the work of Providence who always, though sometimes slowly but surely, sees to justice being done in every land. It is with these feeling, Sir, that I first read the Bill. I felt a feeling of exuberance in my heart over the fact that proper measures were being taken. When I again read the Bill and heard to-day that some more power ought to be given to Government for ensuring the safety of the citizens of Calcutta it also occurred to my mind how wrong it was for us to embarrass Government in its progress towards the amelioration of the condition of the people and ensuring the working of law and order. It also occurred to me that I should, perhaps, do something

more in addition to what has been done—what is sought to be done—by this Bill, I thought of bringing in an amendment that Government ought to be given the power to use poisonous gases as the Germans did during the late war against these rioters for the purpose of killing them outright. It also occurred to me that I should bring in an amendment that Government should have the power to enact that if any one were concerned in the riots either directly or indirectly and if he were in the service of Government he ought to be dismissed outright or if they have left the service of Government and have been in receipt of pension their pension ought to be stopped without giving them any opportunity of making a protest. After these feelings came into my mind gradually I began to think and think it over and reason gradually commenced to work into my thoughts and then I set myself to thinking as to why is it that this Bill is sought to be introduced and at the same time again a feeling was deterring me from taking this thing into my consideration because I felt that nothing would exceed this scene on my part and on the part of my countrymen to do anything in the way of putting an embarrassment to the Government when introducing a measure for the mitigation of the evil. But, Sir, I began to think as to why is this Bill brought forward. Has not the Government got the power and power enough under the ordinary law to take care of these things and to remedy the evil? I fail to make out why is it that the operation of Chapter VII of the Criminal Procedure Code is not considered to be enough. Under that Chapter, specially sections 107 and 114 of the Criminal Procedure Code, there is power given to the Magistrate upon the report of the Police to arrest anyone and put him in jail temporarily, whenever they get any information that there is reason to believe that someone will commit a breach of the peace and cannot be prevented from doing so otherwise than by his immediate arrest. Now, there are also other powers; under section 54 of the Criminal Procedure Code a Police officer, and not a District Magistrate, quite independently of the District Magistrate, has got similar powers to arrest any person against whom there is reasonable complaint or there is credible information or even there is reasonable suspicion that he is going to commit a breach of the peace. When these powers of arrest have been given to the District Magistrates, when these powers have been given to the Police officers, what is the necessity of this Bill? It occurred to me that the provision of the Bill is to play fast and loose with these rioters and these criminals, to ask them to get away from the country whereas the best measure would be to arrest them at once and put them in jail. I could not make out for myself as to the reason for it—powers there are already enough for the Government if the Government want to exercise them. We are not in want of laws. In the first period of the riot what occurred to everyone—just as Mr. Villiers has been pleased to observe in the course of this debate—it is not the want of laws but the want of inclination to administer the

laws that was responsible for the bloodshed and the growth of the riots, that was responsible for the spread of communal feelings.

Mr. E. VILLIERS: On a point of personal explanation, Sir. I did not say that it is want of desire to administer the laws that was responsible for the riots. I made it perfectly and definitely clear that Government was acting under specific instructions of this House.

Babu SARAT CHANDRA BASU: I stand corrected. In any case there was a persistent feeling in Calcutta that Government was not doing what it ought to have done. It was a time of inaction on the part of Government in the beginning and towards the end the attitude was an attitude of passive resistance to the rioters—that was the feeling throughout. There are Magistrates and there are Police officers but they did not do enough because they thought that they were themselves powerless or the Government were afraid of criticism or that the Police officers themselves were running the risk of losing their job or of being degraded—and that is the reason why they did not do their duty. I do not wish to mention any specific instance. The idea is persistent that whenever the Police officer attempted to do their duty they felt the drawback that if they did what they were called upon to do under the exigencies of circumstances they ran the risk of incurring the displeasure of Government, because it was not the question of justice or propriety of the action but a question as to who could best catch the ears of the Government of the country. It is that apprehension which deterred the Police officers from doing their duty and was responsible for the growth of the riot in Calcutta. Now, Sir, I do not wish to detain you longer, but there are certain provisions in the Bill to which I wish to invite your attention. How can you possibly deal with a measure of this sort without the previous sanction of the Governor-General in Council.

Mr. PRESIDENT: Order, order. That sanction has previously been obtained. You ought to know that if it had not been obtained I would not have allowed this Bill to be brought out before the Council.

Babu SARAT CHANDRA BASU: I am thankful to the Hon'ble the President for giving me the information. Then there is another thing. Under the Government of India Act there is no power—

Mr. PRESIDENT: Mr. Basu, you are raising points of order now when it is not the proper time to do so. Now we are discussing the general principle of the Bill. Do I understand that you have finished it or are you raising points of order?

Babu SARAT CHANDRA BASU: It is upon the general principle that I am addressing you now, Sir. The general principle is that a local legislature has got no power—

Mr. PRESIDENT: Order, order. I cannot allow you to enter into that discussion.

Babu SARAT CHANDRA BASU: I stand corrected, Sir. It is upon the general principle that I am addressing you. Of course, after your ruling I cannot go into that. But there is one thing which you ought to consider and it is this: this Bill takes away the powers of the High Court which has been granted to it for the administration of the law of the land. Under an Act of Parliament under the Charter of the High Court and that power has been taken away and there is no safeguard provided in this Bill for the exercise of the power. Then again, as the Bill is a comprehensive one it will be applicable to all subjects of His Majesty the King Emperor of India, it will comprehend within its grasp the European British subjects. I may be permitted to say that the local legislature cannot do that. It goes against the principles of the legislature of the country, it goes counter to the Statutes of the Parliament. Now these are things that require consideration by the Hon'ble Mover of the Bill and the public of the land as well. The members of this assembly also want to have an explanation as to the use of asking these undesirable people to get away from Calcutta when power already exists to arrest them and detain them in prison. Explanations are also wanted as to why the local Government has been given the power of control over the proceedings of the Police officer or of the District Magistrate. Sir, you are aware that since the passing of the Government of India Act of 1919 the local Government has not got a body of its own. I may say that Government does not mean now His Excellency the Governor. In the absence of specific directions in the Bill I submit that we ought to consider the amendments, specially those proposed by my friend Sir P. C. Mitter.

Mr. PRESIDENT: Order, order. Mr. Basu, your time is up.

Maulvi WAHED HOSSAIN: I do not use a mere phrase of convention when I say that I was never oppressed by a sense of responsibility so great and onerous as on the present movement. I am well aware that one of the duties of the State is to protect the life and property of the citizens and that Government cannot sit idle when the safety of the people is in danger. I also concede that the hands of the Government should be strengthened if there are no weapons in their hands to cope with the situation. The present is an extraordinary time made delicate by extraordinary events. On the one hand there is solicitude for safeguarding the life and property of the people; on the other hand, there are care and anxiety for saving one's skin from the misuse of the proposed measure and for avoiding the Russian methods of government. It is, therefore, necessary to make a proper estimate of the Bill without bias or prejudice.

It seems to me that the proposed Bill is the offspring of panic and nervousness. I am aware that a certain section of the people desired the Government to take strong measure to cope with the dangerous situation created by the outburst of frenzy. But faintly did they realise at the time that the Government is preparing itself to fling before the public a dangerous measure which will hang on their head like Damocle's sword. Panic and excitement are gradually dying out; but their offspring the Emergency Bill, if adopted, will live for ever in the Statute Book. Will it reach the "literary assassins" whose reckless utterances and writings are mainly responsible for the sporadic riots in India? I do not blame alone the simple-minded roughs of the town who foolishly believed and rudely fought in the heat of the moment; but I do hold responsible those who have stuffed the mind of the masses with racial hatred and racial prejudices. Will this measure reach the honourable men who have been keeping up a sort of class warfare in the country? Their thoughtless utterances from Ambala to South India and from Delhi to Calcutta have filled even the best mind with insidious poison of communal hatred. Will this measure reach these men? I doubt, Sir, if the arms of law are long enough to reach them.

However, Sir, a special legislation is justified by special circumstances. But if the situation is changed and the circumstances do not exist there will be no need of the special legislation. Bloody riots occurred in other parts of India also but no Emergency Bill was introduced anywhere. The Bombay Emergency Act is of a different nature. I do not think that the situation in Bengal is different from that prevailing in other provinces. Moreover, the situation has changed and does not now require the help of any emergent legislation. Further, the provisions of the Bill are so drastic that it has created a new panic of far-reaching consequences. We are living in the days of distrust and every one is inclined to think that it will prove an engine of oppression in the hands of the executives. So long as the feeling of distrust lasts, the Government will not earn a golden opinion of the public by rushing the Bill through the Council. I, therefore, submit that it will be better if the Bill is dropped for the present as the existing laws are quite sufficient to meet the situation.

We have enough of such Draconian laws and bitter experience of their application. We require peace and mutual goodwill and not the constant terror of a tyrannical legislation. If, instead of giving us the Emergency Bill, the Government can bring about a change of heart of the two communities a high purpose will be served which no amount of legislation can secure. In making this suggestion I am not without a precedence. The great strike of England has been brought to an end by the wise intervention of the British Cabinet. If the Government intervenes and brings about a reconciliation between the

two communities, its services will be highly appreciated. I request the Government to consider which step will be acceptable to the public—the proposed irritating legislation or the soothing calm of conciliation?

Babu DEBI PROSAD KHAITAN: I am sorry that Mr. Villiers and Mr. Ghuznavi have both raised the question of the personnel of the police in discussing this Bill that is before the House. They have stated that it is quite natural that there being not a sufficient number of Muhammadans servants in the Police Service the Muhammadan community in Calcutta cannot have confidence in the powers that may be conferred on that service. Sir, I think it would be a pertinent question for me to ask which community it is that has started all these riots in Calcutta. Who started the Tallah riot at about the end of the last century and which community is responsible for the riots—big and small—in Calcutta during the last 15 or 16 years? Are not the Muhammadan citizens of Calcutta responsible for the commencement of each and every individual riot?

Mr. J. M. SEN GUPTA: May I rise to a point of order? We are discussing the question whether or not this Bill is necessary. What is the relevancy of the necessity of this Bill to the question as to which community was responsible for Tallah and some other riots? My friend is saying that the Muhammadan community is responsible for certain riots in certain places. That has nothing to do with the question now before us.

Mr. PRESIDENT: That is not a point of order. You should use that as an argument in your reply, although I think the speaker is straying a bit too far.

Babu DEBI PROSAD KHAITAN: I have not the slightest desire to stray away from the question that is before the House, but I believe, Sir, that as a certain amount of discussion has been permitted, it is desirable that a certain answer should be given, and it is with that intention only that I have started this matter: otherwise and when I entered this Council Chamber I had not the slightest desire to do so. In these circumstances it does not lie in the mouth of Mr. Ghuznavi to express diffidence in the Police Service of Calcutta. Sir, I am not at all surprised that this question has been raised because I do not believe that it is the playing of music before the mosques that constitutes the chief cause of these riots. It is really the political situation in the country, the existence of the separate electorates that lead to the spread of fanaticism—

Maulvi KADER BAKSH: This is not the reason of the riots.

Mr. H. Q. SUHRAWARDY: Is not my friend straying away again from the point?

Mr. PRESIDENT: I have allowed a certain amount of latitude to Mr. Ghuznavi and Mr. Villiers and so I think every one should have a chance of replying to the points they raised.

Babu DEBI PRASAD KHAITAN: Having regard to the fears expressed by my Muhammadan colleagues in this House I would not pursue that question further knowing fully well that it is not in the hands of this Council to set that matter aright, but coming nearer home I might refer to another passage read out by my friend Mr. Ghuznavi—that it is not the Bengali Hindus that are chiefly concerned in the riots. Sir, may I know whether I shall be in order in asking—Is it the up-country Hindus coming from the Punjab, Bihar or Rajputana that are desecrating the temples and the images in Eastern Bengal? Is it not the people of this province belonging to a particular community that are responsible for these desecrations? In these circumstances I hope that this ticklish question will not be further referred to by any other colleague in this House, because if that is done it will surely and certainly lead to bitter feelings—more bitter feelings than those with which we have entered the Council Chamber for the discussion of the Security Bill.

The new Bill has placed the Hindu members in a very difficult position. They have every sympathy with the motive which has actuated the Government in bringing out the Bill but the actual form in which the Bill has been presented has given rise to a good deal of apprehension as regards its application. I may say that the opinion I am expressing to-day is the result of inquiries that I have made since my return from Bombay, for fortunately or unfortunately I was not present in the city during the whole month of April when Calcutta was turned into a battle-ground. So far as the Bill is calculated to weed out the *goonda* element of the city who succeeded in spreading anarchy and disorder on an unprecedented scale during the whole course of a month, we feel it to be our duty to extend our moral support to its main principles. It is the Hindus who have been the worst sufferers in the riots. Their properties were looted, their lives were imperilled, the trade and commerce of the city have been absolutely dislocated resulting in enormous losses to the Hindus. In every respect it is the Hindus who suffer most by such anarchy and disorder.

Mr. J. M. SEN GUPTA: Is my friend entitled to give an account whether the Hindus suffered most or the Muhammadans? Are we discussing that question?

Mr. PRESIDENT: We are not discussing that question but some of the speakers have referred to it and so I think Mr. Khaitan is entitled to reply to them.

Babu DEBI PRASAD KHAITAN: I am quite surprised that my friend Mr. J. M. Sen Gupta should have objected to these remarks. I am simply trying to explain why it is necessary for the Hindu members of this House to extend their support to the principles of this Bill and I think I am entitled to do that. It is, therefore, entirely to their interest to see that the element which has been responsible for this reign of hooliganism may be promptly and decisively suppressed so that peaceful businessmen might feel a sense of security in carrying on their trade and commerce. We are, therefore, reluctant to face the accusation that we have failed to co-operate with the Government in purging this city of its undesirable elements and re-establishing peace and security. But, Sir, there is a general impression that in the past we have had unpleasant experiences of misuse of extraordinary powers by the Executive. Examples of such misuse are said to be numerous, so that the people have got an instinctive aversion for arming the police and the Executive with such wide discretionary powers. The people are asking—was the existing power of the police so insufficient and inadequate as to prevent them from dealing effectively with the riots? There are suspicions lurking in their minds that the police authorities, with what powers they possess, were reluctant to act, in fact they did not honestly and sincerely discharge their duties for the maintenance of peace and order. In the first stage of the riot they looked on passively, practically abdicated their function, and allowed the *goonda* element of the city, who are known to the police, to carry on their nefarious activities with impunity. It is stated that the police abstained from exercising effectively the powers which they already possess, and it is their failure to act promptly at the psychological moment that encouraged the hooligans in their act of arson and murder for such a length of time. But whoever may be to blame, the situation has now grown intensely embittered and the minds of the people are now full of apprehensions about further recrudescence of the trouble some time or other in the near future, and this statement, Sir, is corroborated by the speeches of His Excellency and the Hon'ble Sir Hugh Stephenson. Unless, therefore, the city gets rid of the pest of *goondas*, it will be difficult to inspire a sense of confidence and security which is so essential for the development of trade. The question now is, can we entrust the police with such arbitrary powers with safety to peaceful citizens? We have got to satisfy ourselves that the innocent may not suffer with the guilty, that in stamping out *goondism*, inoffensive people may not be victimised and that in the name of law and order the police may not be given scope for preying upon peaceful businessmen.

Our experiences during the riot have increased our apprehensions with regard to the propriety of investing the Executive with such unrestricted authority over the rights and liberties of citizens. I know

of several cases in which persons of position and influence have been arrested and kept in custody for more than a week on quite frivolous grounds. I have heard of a large number of *durwans* in the employ of various wealthy merchants being put under indiscriminate arrest for no other reason than that they possessed a stout physique.

Dr. H. W. B. MORENO: Possess what?

Babu DEBI PRASAD KHAITAN: Stout physique—not a stout voice like yours.

The *durwans* and *jamadars* who play a very important part in trading and banking circles in Calcutta have been victimised by the police on the one hand, and the Muhammadan *goondas* on the other. It is they who have been stabbed and killed and it is these men who were taken out of respectable houses, put in jail, and, after weeks of confinement, were let out for “no evidence.”

Under these circumstances it is only natural that in spite of our strong desire to root out the *goonda* menace from this city there should be diffidence in according support to the Bill as it stands. It is more-over desirable that Government should properly consider whether necessary peaceful steps should not be taken so as to render unnecessary the declaration of a state of emergency under the Bill that is now before the House. This can only be done by trusting the respectable citizens of Calcutta. Such citizens offered themselves to supplement the efforts of the police but that offer was not accepted. We all know how the police at Delhi recently managed the situation there. Why cannot similar steps be taken in Calcutta? On the other hand I am constrained to say—speaking for the Marwari community to which I belong, that respectable citizens of Calcutta have been placed in positions of great difficulty. A man may either be protected by Government, or be defended by his servants or he may defend himself. So far as Government is concerned, they declare that the police force was inadequate to extend proper protection. As regards servants, circulars have been issued to public bodies stating that the *durwans* constitute a menace. The only remedy left, therefore, to a person is to defend himself, but that again is rendered difficult by the indiscriminate way in which applications for licenses for fire-arms are refused even to the most respectable people who clearly come under the rules. Such a position places the people at the mercy of the hooligan element. I hope, Sir, that Government will carefully consider the position and place trust in the most respectable sections of the public.

Maulvi KADER BAKSH: I had no desire to speak even a single word or to take any part in this discussion but for the speech of Mr. Khaitan. We met here to-day not to discuss anything about those who are responsible for the riots but only to discuss the merits of this Bill. Now, Sir, Mr. Khaitan has said that the Muhammadans were

primarily responsible for the riots but I beg to say that the Marwaris and not the Muhammadans or the Hindus are responsible for the riots. I believe that on every occasion when a riot took place it started from the Marwari part of Calcutta. When I was in Calcutta a few years ago there was a big riot which claimed several people as its victims. Can my friend Mr. Khaitan explain the situation, can he enlighten the House as to why the Marwari part of the town is always the place where riots occur? The Marwaris have in their employ *durwans* to guard their shops and houses. Why should they be afraid of the *goondas* if they have not given offence to anybody?

Regarding this Bill I beg to say this much that the Muhammadans live in open *bustees*; they have no big houses or citadels to take shelter in, whereas Burrabazar provides all sorts of big houses, which are something like garrisons. From this point of view I do strongly oppose this Bill, for if this Bill be passed into law the Muhammadans will fall victims to it. Anybody can tell the police that Muhammadans living in open *bustees* are the people who are likely to commit murders while the *durwans* and others who are in the employ of the Marwaris who get high pay are not likely to be touched by this Bill.

Mr. J. M. SEN GUPTA: I had attempted to catch the eye of the President before Mr. Kader Baksh got up to speak. The reason was that I felt extremely sorry that Messrs. Villiers, Ghuznavi and Khaitan should have introduced extraneous matters of a communal nature which had nothing to do with the question before the House. I am sorry that the question as to whether the Muhammadans were the originators of the disturbances or the Hindus or the up-country *durwans* or the Marwaris, was raised at all in this House this afternoon. That question had nothing to do with the merits of the motion before the House. I heard with great attention the address that His Excellency delivered here this afternoon. I have also listened with great respect and attention to the speech of Sir Hugh Stephenson. But I am sorry to confess that I heard nothing new in the arguments that His Excellency and the Hon'ble Sir Hugh Stephenson advanced in the House. They merely repeated the argument that we have been seeing and reading in the *Statesman* and the *Englishman* for the last few days.

Every one knows that since the riots started on the 2nd April, a feeling has been growing in the province that the Government and the police have not done their duty, that the Government and the police have not used the powers given to them under the ordinary law. Every one knows that if the heads of the Government had been in Calcutta on the spot and put into motion the ordinary powers they have under the law the riots would not have continued for nearly a month. I would remind the House of the powers that are given under section 107 of the Criminal Procedure Code and section 144 and other sections under the same Chapter of the Criminal Procedure Code, or

the powers taken under the Goonda Act. We were told when the second riot broke out that Sir Hugh Stephenson had a list of 1,000 *goondas*. I would ask the members present what Sir Hugh Stephenson was doing from February 1923 when the Goonda Act was put into force, with this list of 1,000 *goondas*? Why did he not put the Act in motion during these three years against these persons and I would also like to know what Sir Hugh Stephenson and his police force were doing against these *goondas*. They did take action finally against some of them, and a large number of the *goondas* ran away. Why? Because, as the Hon'ble Sir Hugh Stephenson has said this afternoon, they were afraid of the operation of the Goonda Act, or of the Bill which might be used against them if it went through the legislature. It is perfectly clear, Sir, that Government had ample powers under sections 107, 144 and under several other sections of the Criminal Procedure Code and other Police Acts. I would in this connection only remind the members of the House of a place only a few yards away from here, across the river, I mean the district of Howrah. There is only an Indian magistrate there and he has shown that the situation can be coped with by the exercise of the ordinary powers which the ordinary law gave him. The incidents that happened in Calcutta might also have happened in his jurisdiction but he took precautionary steps under sections 107 and 144 of the Criminal Procedure Code. He did not ask for extraordinary powers! It is all very well for Sir Hugh Stephenson to say that Government could not arrest the suspicious characters and proceed against them under the Goonda Act because it took a long time! Even during these three years Government could not take action against these *goondas*, a list of whose names he had in his possession? All that the Hon'ble Member in charge of Law and Order had to do was to get reports from the police and he had to be in Calcutta to see through these reports—200, 300 or 400 reports—a day and go through them right through day and night and pass orders immediately for arrest. Then they might be placed later on before the Judges. He could have come down to Calcutta and looked into the reports and taken action against them under the Goonda Act. The question of placing these men before the judges was an altogether different matter, but the papers had to be examined by the Hon'ble Member in charge first.

But the real purpose of the Bill is something different. The real purpose of the Bill is to cover up the charge that has been made and made on sufficiently good grounds that the Executive and the police have failed to do their duty during the riots. That is, Sir, the real purpose of the Bill. Are you prepared, are the members of this House prepared to say that the police were not remiss or are the members of this House prepared to say that the police did their duty? Are the members of this Council prepared to say that because of the want of these powers under this Bill, they failed to quell the riots? That is exactly the admission that Government want from us.

It is in defence of Government that this Bill has been brought forward for the purpose of showing to the world that it was the want of the powers which they now seek from the legislature through this Bill that did not allow them to suppress the riots quickly. It has been said both by His Excellency the Governor and Sir Hugh Stephenson that some members who went to see His Excellency impressed upon him the necessity of more drastic powers being given to the police. I had not the good fortune of seeing Sir Hugh Stephenson at all during the riots. I was summoned by His Excellency and I assure you that not a word escaped me—we both managed it very tactfully—we did not discuss about the effects of the inaction of the police, and we never referred to the question of additional powers being given to the police. I say this only because there may be some misapprehension that perhaps I also asked His Excellency to confer more drastic powers upon the police. I know that there have been suggestions in the press and other places with regard to the use of firearms and the proclamation of martial law and so on. I can tell you that the majority of the people—Englishmen, Indians, Hindus and Muhammadans—were all against the use of fire arms indiscriminately by the police or of declaration of martial law. What was wanted was speedy and immediate and determined enforcement of the provisions of the ordinary law of the land. I have said that the ordinary powers under the different Acts already in force were sufficient to cope with the riots.

I am personally opposed to the Goonda Act. Regulation III or martial law is not necessary for the purpose of preventing these riots. I beg of you to consider whether the members of this Council are prepared to give these extraordinary powers to the Commissioner of Police or for the matter of that, to the Members of the Executive Council. We are not prepared to say that Government did all that they could during the last riots. We are not prepared to say that Government had not sufficient powers to prevent the riots from continuing for nearly a month. We are not prepared to say that the powers sought under this new Bill will not be abused by the police. We are not convinced that these new powers asked for are not asked for the purpose of whitewashing the deliberate inaction of Government and their criminal negligence.

(One word more, I have said that these powers might be abused by the Executive and the police. His Excellency has told us, he has assured us that these powers will not be abused, but, Sir, we are not in Bombay, I do not know whether the Bombay Act is abused or not, but we do know from recent, as well as from past, experience in Bengal, we do know that powers under certain Acts have been abused. I would only refer to one instance. In 1921 when Lord Ronaldshay sent for the late Mr. C. K. Das and told him that he should disband the volunteer organisations of the Indian National Congress, Mr. Das told him in reply—it is an open secret—that these volunteer organisations

were absolutely peaceful organisations, pledged to non-violence, and the volunteers were arrested from day to day in the streets when they were selling *khaddar*. His Excellency Lord Ronaldshay told him in reply "we have police reports to the contrary." Under that very Act—the Criminal Law Amendment Act—which declared the voluntary organisations of the Indian National Congress as illegal, as violent organisations, Mr. C. R. Das himself was arrested. Does anyone in this House believe that Mr. C. R. Das in 1921 was organising a violent organisation under the volunteer organisations of the Indian National Congress? But the police, the Government, His Excellency did not stop from applying the Criminal Law Amendment Act to the volunteer organisations of the Indian National Congress, even after the denial that he had from Mr. C. R. Das. He agreed to the application of that Act to Mr. C. R. Das himself. Sir, we know how these powers are exercised once they are given. We cannot accept the guarantee of His Excellency or Sir Hugh Stephenson that these powers will not be abused; we cannot accept their statements, and we strongly oppose this Bill.

Mr. K. G. RAY CHAUDHURI: We had a very interesting speech from the leader of the opposition in which he accused the Government of inaction—glorious inaction—but, I think, Sir, that if he and his friends had visited the affected area they would have come to the conclusion that any amount of police, any amount of police action would not have checked the hooliganism and individual assassinations in the alleys and bye-lanes of Calcutta. You may remember that the police with its present strength cannot be present at each and every place. I strongly deny that it was to whitewash the glorious inaction of the police that had brought about the Bill. My next point, Sir, is that Mr. Bose in his speech on the constitutional aspect of the Bill delivered a lecture more suitable to a law class of a Law College than Legislative Council, but, Sir, he should know that when the Bill was drafted, the well paid Law officers of the Crown must have been consulted before the Bill was drafted. And thirdly, the very same arguments were used about the Goonda Act, the arguments, for example, that one province cannot legislate for another, that we have not the authority to pass such an Act and so on. That is quite beside the point. We can only deal with the extraordinary situation by extra legal machinery—by an executive machinery—because we have found that the existent powers were not enough. Sir, many questions have been raised about the curtailment of liberty, attack on the Magna Charta by this legislation but it will surprise the members of this Council if I tell them what I saw during the first and second riots. I was going through Muktarām Babu's Row when I saw a Muhammadan coachman who had Hindu passengers in his coach being done to death. Mr. Rakhaldas Banerji, the Superintendent of Archaeology, whose house was close by

rendered first aid to this coachman. But he was strongly criticised and even obstructed. Does it prove that we do justice to our own country, humanity to our dying own men, and yet we protest that a great attack has been made on our liberty by the proposed legislation? I give one more instance of the callousness of the public. I was passing along Chitpore Road and I found a man lying dead there. I asked a shopkeeper why he did not take any step to resist or follow the assassin. He said "it is not my business to follow the assassins." That is why I say that it is all idle talk when we speak of attacks on liberty.

Sir, I give the Bill my wholehearted support with this reservation that I want to discuss the question of amending the Bill in such a way as it would prevent the abuse of the powers conferred by it, and that it will not be used in Labour disputes to break a strike.

Mr. A. C. BANERJEE: When I came to this Council Chamber this afternoon, I had no intention of taking part in the discussion. My object was to give a silent vote and that on the right side. But after hearing Mr. Villiers, Mr. Ghuznavi and also my friend Mr. Khaitan, who dragged communal questions into the discussion of this Bill, I felt that I should say just a few words. First of all, Mr. Villiers was wholly wrong in imagining—he not merely imagined but he supposed—that by reason of the preponderance of the Hindu element in the police service there is every risk of the Muhammadan population suffering at their hands when there is a riot. He is wholly wrong—

Mr. E. VILLIERS: May I offer an explanation, Sir? I said nothing of the sort. Mr. Banerjee has unfairly twisted my words. I merely said "for the sake of argument" that such and such was the case.

Mr. A. C. BANERJEE: Well, I am glad to have the assurance from him that he did not attribute any partiality to the Hindu police. At all events that was the trend of the observations of my friend, Mr. Ghuznavi. Well, when you take into consideration the fact that more Hindus were arrested, more Hindus were killed (A voice: And injured) and injured, I am sure you will revise your opinion. I repeat that according to figures published in the papers more Hindus have been killed and wounded. (A voice: Question!)

Maulvi MD. NURUL HUQ CHAUDHURY: On a point of order, Sir. Is there a list printed and published?

Mr. PRESIDENT: That is not a point of order, Maulvi Sahab.

Mr. A. C. BANERJEE: It has appeared in the papers in which statistics have been given. I am perfectly certain that statistics appearing in a paper like the *Statesman* have undoubtedly the cognisance of Government. At all events these facts have not been denied and that for

the simple reason that they cannot be denied. With the Hindu element predominant in the police force more Hindus have been killed and more Hindus wounded and prosecuted! Does that show a bias on the part of the police in the discharge of their duties? On the contrary, if there was a bias at all it was a bias against the Hindus judging the action of the police by the result.

Now, Sir, with regard to the Bill itself we are told that the Bill is necessary—in the Government armoury of weapons another weapon is necessary—with a view to restrain the liberties of the people. It certainly means a restraint on popular liberty, but we are told that this restraint is intended only for the *goondas*, only for the hooligans who are here or are imported or are likely to be imported into Calcutta. When His Excellency addressed us on the subject, and Sir Hugh Stephenson spoke in introducing the Bill, no one, Sir, in this House was more willing, more anxious, to be convinced by their arguments than I was. But I was disappointed; I could not persuade myself, after hearing them, to believe that this Bill has been introduced in good faith. It is brought up, as my friend Mr. Sen Gupta has told you, with a view to cover the blame which the inaction of Government has brought on themselves. They say that “this Bill is intended for the *goondas*; what is there to be afraid of if this Bill is passed.” Well, we know that Government has not been in the habit of using powers given to it in the spirit in which they had been given. We know how Regulation III of 1818 has been used. It has been used unscrupulously and mercilessly; we know how the Ordinance has been used; it has been used against innocent men against whom not a little of evidence exists, excepting the hearsay evidence of the police—but no documentary evidence. After all, it is the *daroga* whose report is accepted by the Magistrate and by the Hon’ble Member in charge of the Police Department and ultimately by the Government as a whole. Well, Sir, I will tell you what happened to myself on one occasion during the anti-partition days. For some time Government was good enough to pay extra attention to me, and to provide me with a European outrider in the shape of a Police Inspector who used to shadow me everywhere. I found also that two *parawallahs* in *mufti* were posted opposite my house. I then discovered that these *parawallahs* used to find out from my driver, my syce and my other servants where I had been to, and reported my movements to Government. One day I went out and sent my carriage back instructing the coachman and the syce to mention three names to the *parawallah*, of men who were great favourites of Government—one was a Maharaja, another a Maharaja Bahadur and the third a Nawab Bahadur—as being men to whose houses I had gone whereas I had done nothing of the kind. I then sent for the *parawallahs* and asked them what they were doing there. They said that they had orders from the Commissioner of Police to watch and report my movements, and on being

questioned where I had been to that day, they stated that I had been to see the Maharaja Bahadur so-and-so, Maharaja so-and-so, and Nawab Bahadur so-and-so. Now, Sir, that is the kind of report that is sent to the Commissioner of Police by your *darogas* and *parawallahs*, and that is the sort of basis on which the Government founds its reports. These, Sir, are the men on whose reports they really act, and on these reports how many of our good, honest, patriotic, young men have they sent to jail because they were inconvenient political opponents of theirs!

We are afraid that you will use these powers for political purposes; that is the reason why we are opposed to it. It may be directed against the Muhammadans, against the Hindus, or against both of them, when they are combined and united, to crush political opposition. It is not that you really need fresh power; you have enough powers under the Criminal Procedure Code. For example, in the Howrah district, where there are some big mills and turbulent elements, the Magistrate, on the authority of the Criminal Procedure Code, took steps early enough against the lawless element in the mill area and there was no trouble there. The District Magistrate took steps early enough and there was no riot in Howrah. We know that Magistrates have got police powers under the ordinary law and they can use those powers to prevent a riot. I know the District Magistrate of Howrah had to forbid a great political leader to go there as he thought that his presence would endanger the peace there. We all know that there are designing persons who used the riots for political ends. Be it said to their shame that they used it with a view to breaking up the union between the Hindus and the Muhammadans and they wanted this riot to go on so that in the mufassal no Muhammadan would join the Swaraj or any Hindu party. All this has been done for political purposes——

Hadji Mr. A. K. ABU AHMED KHAN GHUZNAVI: May I rise to a point of order, Sir? Have the hon'ble member's remarks got anything to do with the Bill under discussion?

Mr. PRESIDENT: Mr. Ghuznavi, you forget that you referred yourself to the proportion of Hindus and Muhammadans in the Calcutta Police. I did not call you to order and it is proper that I should allow Mr. Banerjee the same latitude.

Mr. A. C. BANERJEE: After these repeated interruptions I do not propose to go on.

The Hon'ble Sir HUGH STEPHENSON: I share the feeling of disappointment expressed by some speakers, I am disappointed that no better case has been made out against Government. I may put aside the speeches that cancel each other. I may also put aside Mr. Sarat Chandra Basu's speech in which it seemed to me that before he ended he was repenting of his decision of not to permit the use of poison gas;

the only point in his speech was that Government could use the power under section 107 of the Code of Criminal Procedure. I ask the House whether they seriously consider that section 107 is a weapon you can use for preventing men from stabbing persons in narrow gullies and lanes. Putting aside these, what is the case that Government has to meet? No one has denied that our diagnosis is correct, that the *goonda* is the fuel of these disturbances, that his is the hand that commits the worst excesses. Then, Sir, the only point that is made is that we do not want these powers to deal with him as we have got them already. Mr. Sen Gupta has instanced the case of Howrah—I am afraid he tried to bring in racial discrimination by mentioning that Howrah is under an Indian Magistrate—and has said that all was quiet there. But I would ask him to look closer to hand and he would find that there are areas closer to Burra Bazar in which nothing occurred—the area of the disturbances was distinctly circumscribed.

As regards the point that we do not want these powers, it is apparently admitted that the *goonda* is a man you must get rid of, he is a man who fosters the riots and makes the riots dangerous; and it is apparently admitted that the *goonda* is a man who can claim no mercy and ought to be sent out of Calcutta and treated with the utmost rigour. This, then, is the "monstrous" thing, that Mr. Manmatha Nath Roy has said has brought the Swaraj party out of their retreat back to the Council, namely, that we are asking for powers that we have already got. Mr. Sen Gupta rolls out the accusation that having failed to put down the riots we now come to the Council and try to pretend that we did not have enough powers—that, I understand, is the whole charge against Government, the whole reason of the agitation against the Bill and the whole reason of the return of the Swaraj party to this Council, although they left it with a determination not to come back.

As regards the question of the powers, the whole point comes to this. Government say that they have not got the powers and they cannot deal with persons for whom the Goonda Act was not framed; and the whole forefront of the case against us is that we have refused to stretch the Goonda Act to illegal use—for purposes for which it was never meant. We have refused to do the very thing the fear of which the Swaraj party put forward as the reason why they do not want to give us these powers. The gist of the whole thing is that that we could not and did not stretch the Goonda Act to cover cases and to cover men for whom it was not meant and this is what our critics mean when they accuse us of not using our powers. That is the sole accusation against us. Well, Sir, I would ask any one who seriously considers that we have got the power to deal with these men under the Goonda Act to read the Goonda Act and the debate in the Council. There is no question to my mind that the Goonda Act does not cover these men, that it covers only a small portion of *goonda* class.

Mr. Sen Gupta has asked us in thundering tones what we have been doing during the last three years and why we did not make use of the Goonda Act. If he had listened to my speech he would have heard I told the Council that we have used the Goonda Act for the purpose for which it was intended. We have used the Act in order to decrease crime and protect life and property in the city and I have given statistics to show that we have reduced crime in Calcutta to a lower figure than we had been able to attain for many years, we have not used it in vain.

Then, Sir, Mr. Manmatha Nath Roy has asked where would Mina Peshwari have been if we had used the Goonda Act against him. I don't know where Mina Peshwari is—I should like to know—but the answer to Mr. Roy's question is that Mina Peshwari would have been in exactly the same place as he is now. If he would see the Goonda Act he would find that Mina Peshwari would not be in jail under the Goonda Act. That is a typical case where we cannot use the Goonda Act. If the Goonda Act had been used against him he would still have been exactly in the same position as he is now.

Then, Sir, the whole case brought forward for refusing to consider this Bill is that it is unnecessary, that we have got the powers and that we have not used them. Now, Sir, if it is so entirely unnecessary, then why this heat and this rallying of the clans to prevent the bureaucratic Government from seizing further powers. The powers are precisely the same. The whole thing is whittled away, it comes down to a difference of opinion as to whether the Goonda Act strictly interpreted gives certain powers. As regards that it is not a question on which the decision of the Member of Government in charge of the department is final, because the Council have put up under the Goonda Act two Judges as an advisory committee, to advise Government, and it is their duty to report to Government whether an individual case comes within the meaning of section 3 of the Act, and is, therefore, a fit person to be dealt with by Government. The final power rests with the Government, but the Council have put two advisory Judges as an intermediate stage between the Government issuing the warrant and Government finally passing the order. Then, I think, I can put it safely to the Council that if Government disregarded the views of two judges there would be a howl throughout the whole length and breadth of Bengal. We have never disregarded their decision or advice except in one case. But the definition of what is a *goonda* and the final decision as to who can be dealt with under the Goonda Act practically rests with the advisory Judges, and the advisory Judges have taken precisely the same view that we have taken—that they are to be guided by what was the intention of the Council in passing the Act—and their opinions on the cases that have been put before them have emphasised the point that there must be individual acts of violence before they could say that a man was a fit and proper person to be

dealt with under the Goonda Act. Therefore it seems to me that no case whatever has been made out for refusing this motion.

As to the amendments for the circulation of the Bill I may say that this Act is brought forward for use in an emergency and I do not think that the House will agree to circulate the Bill for a month while Babu Amulya Dhone Addy is arriving at an opinion on this Bill. Of the two things I would prefer to be called panicky as regards the future and therefore to take precautions to arm ourselves for dealing with the future, than to clamour in a panic for drastic action when danger is near and run away from the responsibility of this action as soon as things have settled down.

The motion that the Bill be circulated for the purpose of eliciting opinion thereon within one month from this date was then put and lost.

The following motion was called but not moved:—

Babu DEBI PROSAD KHAITAN to move that the Bill be referred to a Select Committee consisting of the Hon'ble Sir Hugh Stephenson, Mr. L. Birley, Mr. D. C. Patterson, Babu Jatindra Nath Basu, Babu Surendra Nath Ray, Dr. Pramathanath Banerjee, Mr. B. Chakravarty, Mr. T. B. Roy, Dr. A. Subrawardy, Haji Mr. A. K. Abu Ahmed Khan (Ghuznavi, Rai Badridas Goenka Bahadur and the mover, with instructions to submit their report as early as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The motion that the Bill be taken into consideration was then put and a division taken with the following result:—

AYES.

Addams-Williams, Mr. G.
 Ahsanullah, Mollah
 Ali, Maulvi Sayyed Sultan.
 Ali, Mr. Altaf.
 Banerjee, Babu Satya Kishore.
 Barma, Rai Sahib Panohanan.
 Barton, Mr. H.
 Basu, Babu Jatindra Nath.
 Birley, Mr. L.
 Chakravarti, Mr. Byomkes.
 Chaudhuri, the Hon'ble Nawab Bahadur
 Sayid Nawab Ali, Khan Bahadur.
 Child, Mr. R. H.
 Chowdhury, Maulvi Fazal Karim.
 Cohen, Mr. B. J.
 Cooper, Mr. G. G.
 Crawford, Mr. T. C.
 Das, Babu Choru Chandra.
 Das, Rai Bahadur Amar Nath.
 Davis, Mr. J. Cooper.
 De, Mr. K. G.
 Donald, the Hon'ble Mr. J.
 Drummond, Mr. J. G.
 Forrester, Mr. J. Campbell.
 Ghuznavi, Hajji Mr. A. K. Abu Ahmed
 Khan.
 Goenka, Rai Bahadur Badridas.

Guha, Mr. P. N.
 Haq, Khan Bahadur Kazi Zahirul.
 Hoard, Major General Richard.
 Hephys, Mr. W. S.
 Hossain, Nawab Musaharui, Khan Bahadur
 Hus, Maulvi Ekramul.
 Khaitan, Babu Debi Prosad.
 Laj Mahammed, Hajji.
 Lindsay, Mr. J. H.
 Martin, Mr. O. H.
 Masih, Mr. Syed M.
 McKenzie, Mr. D. P.
 Mitter, Sir Provash Chunder.
 Morone, Dr. H. W. S.
 Mukherji, Mr. S. C.
 Nandy, Maharaja Kumar Sri Chandra.
 Nasraddin, Khaja.
 Oaten, Mr. E. F.
 Patterson, Mr. D. C.
 Philip, Mr. J. V.
 Rahim, Sir Abd-ur.
 Rahman, Mr. A. F.
 Raikat, Mr. Prasanna Deb.
 Ray, Babu Nagendra Narayan.
 Ray, Babu Surendra Nath.
 Ray, the Hon'ble Maharaja Bahadur
 Kshamsanth Chandra.

Ray Chaudhuri, Mr. K. C.
 Ray Chaudhuri, Raja Manmatha Nath.
 Roy, Mr. S. N.
 Roy, Raja Manilal Singh.
 Sarkar, Maulvi Allah Bukhsh.

Stephenson, the Hon'ble Sir Hugh.
 Subramardy, Dr. A.
 Villiers, Mr. E.
 Walker, Mr. R. L.
 Wilson, Mr. R. S.

NOES.

Addy, Babu Amulya Dhona.
 Ahamed, Maulvi Asimuddin.
 Ahmed, Maulvi Zanneer.
 Sagehi, Babu Romes Chandra.
 Saksh, Maulvi Kader.
 Sanerjee, Dr. Pramathanath.
 Sanerjee, Mr. A. C.
 Sasa, Babu Sarat Chandra.
 Siowas, Mr. Abdul Latif.
 Seen, Babu Bejoy Krishna.
 Chaudhuri, Rai Harendranath.
 Chaudhury, Maulvi Md. Nurul Huq.
 Chunder, Mr. Nirmal Chandra.
 Das, Dr. Mohini Mohan.
 Das Gupta, Dr. J. M.
 Datta, Babu Akhil Chandra.
 Dey, Babu Bereda Prasad.
 Ganguly, Babu Khagendra Nath.
 Halder, Mr. S. N.
 Haque, Maulvi Sayedul.
 Hossain, Maulvi Wahed.
 Huq, Mr. Mahbubul.
 Jeardar, Maulvi Attab Hossain.
 Khan, Maulvi Abdur Rasheed.

Khan, Maulvi Mahi Uddin.
 Mahammad, Maulvi Bazar.
 Maity, Babu Mahendra Nath.
 Mitra, Babu Jagendra Nath.
 Mukerjee, Babu Tarahnath.
 Nasker, Babu Hem Chandra.
 Neogi, Babu Manmohan.
 Quader, Maulvi Abdul.
 Ray, Babu Abanish Chandra.
 Ray, Babu Anilbaran.
 Ray, Dr. Kumud Sankar.
 Roy, Babu Manmatha Nath.
 Roy, Babu Satowripali.
 Roy, Mr. D. N.
 Roy, Mr. Kiran Sankar.
 Roy Chaudhuri, Babu Sailaja Nath.
 Roy Choudhuri, Rai Bahadur Satyendra Nath.
 Sarkar, Babu Hemanta Kumar.
 Sarkar, Babu Naliniranjan.
 Sasmal, Mr. B. N.
 Sen, Mr. N. C.
 Sen Gupta, Mr. J. M.

The Ayes being 61 and the Noes 46, the motion was carried.

(At this stage the Council was adjourned for 15 minutes.)

(After the adjournment.)

CLAUSE 1.

SIR PROVASH CHUNDER MITTER: I move formally that in sub-clause (2) of clause 1 after the words "Province of Bengal" the words "and shall remain in force for a period of one year" be added.

I say I move it formally because I find my friends opposite, following their usual style, have left the House. I asked my friend Sir Abd-ur-Rahim, he is not in favour of it. So it is useless wasting the time of the Council by pressing it to a division. But I owe it to me and to the members of my party to explain to the House as to why I put in the amendment. The Bill is supposed to be an emergency Bill. If it is an emergency Bill, I may take it that it is not expected that the emergency shall continue for all times to come. If the emergency is not to continue, then one year is a sufficient time to meet the emergency. That is ground number 1. My ground number 2 is that the Bill as framed contains many drastic provisions. If the Act is properly administered, no doubt the difficulties will be minimised, but the essence of legislation is different from administration. In giving

irresponsible power to the Executive, the representatives of the public should also be jealous and scrupulous in giving such powers. When the occasion demands that power has got to be given, but that power should not be given for a longer period than is necessary. That is our second reason. The third reason is—and I say this with the utmost respect to my friends on the Treasury Benches—that if we take into consideration the Goonda Act and the present Bill, we cannot but find many legitimate grounds for criticism. The Goonda Act was passed for a different purpose. The present Bill being an emergency Bill, having been drafted very, very hurriedly, very likely our friends could not give that amount of consideration to it which otherwise they would have given to it. Therefore, if we want a permanent measure, that measure should be considered on its own merits, and it is right and proper that public opinion should be consulted; and lastly after one year a new Council will come into existence, and if we wait till the new Council comes into existence, no harm will be done. With these remarks I formally move my amendment, but I do not intend to press it to a division as it will be quite useless.

The Hon'ble Sir HUGH STEPHENSON: I quite sympathise with what Sir Provash Chunder Mitter has said but the same question arose when the Goonda Act was brought in and endeavours were made to limit the operations of the Goonda Act to one, three or five years. There are obvious objections to a short-lived Bill of this kind. It is quite true that this Act is really intended to meet emergencies but it is not quite true in the sense that Sir Provash Chunder Mitter says. There is no question of the emergency lasting for a year. The emergency under the law can only last for three months but we have no guarantee that another emergency will not crop up in the course of a year or after a year, and if it crops up after a year we should be in exactly the same position as we are now, that is to say, we shall have no powers to stop these riots. I quite see that the Bill is a new one that members of the House might desire to see how it works before it is made permanent but on the other hand it is very easy to amend the Bill. If the Bill is not working satisfactorily, that is to say, if difficulties crop up we can bring forward proposals for amendment. After our first experience of the working of the Act if the House thinks that it has failed to achieve its purpose the Act may be amended. I think it will be a pity to limit the period of the Bill to one year.

The motion that in sub-clause (2) of clause 1 after the words "Province of Bengal" the words "and shall remain in force for a period of one year" be added was then put.

Babu Amulya Dhone Addy claimed a division.

Sir PROVASH CHUNDER MITTER: May I request that you will direct that the division be taken by a show of hands?

Mr. PRESIDENT: That is exactly what I intend to do.

The members who were for the motion were then asked to rise in their places, and Babu Amulya Dhone Addy being the only member who rose in favour of it, the motion was lost.

The following motions were not put as they were covered by the foregoing decision of the Council:—

Babu AMULYA DHONE ADDY to move that to clause 1 the following be added, namely:—

“(4) It shall continue in force for one year from the date of its commencement.”

Mr. A. C. BANERJEE and Dr. PRAMATHANATH BANERJEA to move that to clause 1, the following be added:—

“(4) It shall continue in force for six months from the date of its commencement.”

Dr. H. W. B. MORENO: I move that in sub-clause (3) (a) of clause 1, lines 3 and 4, for the words “three months” the words “two months” be substituted.

I deeply regret that I was unable to catch your eye, Sir, when the principle of the Bill was considered. I should have deemed it a great privilege as a representative of the Anglo-Indian community to accord my support to the Bill. Government in this Bill are asking for special powers to deal with such cases of emergency. Apart from the fact that the two communities that have been pitted together in this very deplorable—

Mr. PRESIDENT: You must confine your remarks strictly to the point now under discussion. I won't allow any member to stray from the point.

Dr. H. W. B. MORENO: All I have to say with regard to this provision is that it is entirely a Bill which deals with cases of emergency. We may take it that emergencies do not last for a very long time. It is here provided that such a state shall continue for three months from the date on which a state of emergency is declared. We know that during the recent riots practically all was achieved within the space of a month and if one month were sufficient surely two months would be more than sufficient to deal with all the dangerous characters that do not come exactly under the Goonda Act. I think the time should be restricted to a lesser period than what the Government propose. If the Government are prepared to act in time I think they could effect all that they want to within the limit of an extra month. I do not see the necessity of another extra month. That is the reason why I have moved for two months instead of three months in the Bill.

The following motion was called but not moved:—

Babu SEJOY KRISHNA BOSE to move that in clause 1 (3) (a), lines 3 and 4, for the words " three months " the words " one month " be substituted.

The Hon'ble Sir HUGH STEPHENSON: The present emergency has already lasted seven weeks and I think he will be a bold man who will say that the emergency is over. The communal feeling is still there; there may be an outbreak at any time and if there is an outbreak you will at once find back in Calcutta those whom I have called vultures who feed on the corpse. I think that if you are going to have an emergency measure it will be a mistake to limit the emergency to too short a period. We have put the limit at three months so that we cannot go on for ever having once declared an emergency. To put a time-limit of three months is only a reasonable limit and I think it will be a mistake to try and cut it down to two months or one month. There is no particular object in it because if we are going to misuse a power we should do it in the first days of the emergency and if the emergency only lasts a month we should not use the powers in the other two months, so there is hardly any use in limiting the emergency to one month or two months; the emergency might as well last for three months.

The motion that in sub-clause (3) (a) of clause 1, lines 3 and 4, for the words " three months " the words " two months " be substituted, was then put and lost.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was put and agreed to.

CLAUSE 2.

The following motion was called but not moved:—

Mr. A. C. BANERJEE to move that in clause 2, for the definition of " Presidency Area " the following be substituted, namely:—

" " Presidency Area " means Calcutta together with the riparian areas within the thanas of Howrah and the 24-Parganas where there are jute and other mills and factories."

Sir PROVASH CHUNDER MITTER: I move that for sub-clause (c) of clause 2, the following be substituted, namely:—

(c) " Presidency Area " means Calcutta together with—

(i) the police-stations of Baranagar, Noapara, Barrackpore, Dum-Dum, Tollygunge, Behala, Metiabruz, Mahastola, Bhangar, Tittagarh, Khardah and Budge-Budge in the district of the 24-Parganas;

- (ii) the police-stations of Howrah, Sibpur, Malipanchgara, Golabari, Lillooah, Bally and Bantra in the district of Howrah; and
- (iii) any other area within the 24-Parganas or the district of Howrah or Hooghly, which the local Government by notification in the *Calcutta Gazette* may include within this definition.

My amendment is long but its substance is very short indeed. Its object is that there are several mills on the other side of the river and communal difficulties may arise there; so I want to give power to Government under clause (d) of my amendment that by notification Government may include those areas. The rest of the clause I have taken from the Goonda Act. I think that if we have to have this Bill it is just that Government should be armed with powers to proceed against the mill-hands on the other side of the river.

The following motion was called but not moved:—

Babu SURENDRA NATH RAY to move that in clause 2 (c), line 2, after the word "Howrah" the following be inserted, namely:—
"the portions of the Hooghly district which are included in the municipalities of Uttarpara, Kotrung, Konnagar, Rishra, Serampore, Baidyabati, Bhadreswar, Champdani, Telinipara and Hooghly-Chinsurah and Bansbaria".

The Hon'ble Sir HUGH STEPHENSON: I am perfectly prepared to accept the amendment of Sir Provash Chunder Mitter which practically covers the amendment of Babu Surendra Nath Ray.

The motion of Sir Provash Chunder Mitter was put and agreed to.

Mr. PRESIDENT: The question is that clause 2, as amended, stand part of the Bill.

The motion was put and agreed to.

• CLAUSE 3.

The following motions were called but not moved:—

SHAH SYED EMDADUL HUQ to move that in clause 3, line 2, after the word "life" the word "religion" be inserted.

Babu BEJOY KRISHNA BOSE to move that at the end of clause 3, the following be added, namely:—

"Provided that if at the time of the issue of the notification the Bengal Legislative Council is in session or has been summoned to assemble, no notification shall be issued unless the Council by a resolution recommends that the notification be issued."

Mr. K. C. RAY CHAUDHURI: I move that the following be added to clause 3, namely:—

“ Provided that nothing in this section shall be deemed to entitle or empower the local Government to declare a state of emergency in any part or parts of the Presidency Area affected by a strike of workmen, or a lock-out of workmen by employers in contemplation or furtherance of a trade-dispute.”

The object of my amendment is very simple. I do not want that this extra legal and executive machinery should be used to break a strike. From my bitter experience of several strikes I do say that the mill managers and certain other employers invoke the assistance of the police and the magistracy to *chalan* some of the strike-leaders on the pretence that they were *goondas* and *badmashes* who were trying to break the peace. I will give you one instance. In 1922 there was a threatening of a dock labour strike, the stevedore coolies' strike, as my industrial friends will bear me out. In fact there was a strike for a day or two. Some of the leaders of the dock strike—I know their names, but I will not mention them here—were sought to be arrested under section 107 and section 143 for rioting and also notices were served on some of them to show cause why they should not furnish security. They came to me and I knew that they were not out for breaking the peace; they were helping the cause of the strikers whose grievances were genuine, *viz.*, low wages, longer hours. I interfered and the charges were withdrawn. The same thing also happened at another place, *viz.*, Kankinara. There are Police Inspectors who always seek the favour of the mill managers and charge the labourers with breach of peace. They may report to the Magistrate that the best thing to do is to utilise this machinery by declaring an emergency and send away some of these men during a strike or lock-out. Most of these men are up-country men and I move this amendment on their behalf but if the Hon'ble Member in charge gives a solemn undertaking that this measure will not be taken advantage of in the case of a strike I will certainly withdraw my amendment.

The Hon'ble Sir HUGH STEPHENSON: I am afraid I cannot accept the amendment as it stands because it would only be necessary for a *goonda* leader to lock out his employees to prevent us from using the powers. I quite sympathise with the mover's intention. The same point was raised when the Goonda Act was brought in; we found no way of safeguarding this particular point except a declaration from Government that they have no intention whatever of using it against labour as such. The powers given in this Bill are to be used on the occurrence of a state of emergency; it does not matter what the reason for the state of emergency is, whether it arises out of a strike or it arises out of a communal trouble. If you have got a state of emergency, if you have people looting and murdering

in the streets you must declare a state of emergency without going back to see what was the original cause, but I can give the hon'ble member an assurance that this Bill is not in any way directed at a labour movement or anybody connected with the labour movement as such and will not be used against them as such.

Mr. K. C. RAY CHAUDHURI: With this assurance from the Hon'ble Member I am pleased to withdraw my motion.

The motion was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was put and agreed to.

CLAUSE 4.

Sir PROVASH CHUNDER MITTER: In my next amendment I want to substitute the Chief Presidency Magistrate instead of the Commissioner of Police. Many members of my party want the Government to accept this motion, and as I understand that Government is not prepared to do so, I do not press it in view of the fact that the majority of the elected representatives of this House have thought it fit to desert their places in this House.

The following motion was called but not moved:—

Sir PROVASH CHUNDER MITTER and Babu AMULYA DHONE ADDY to move that in clause 4 for the words "Commissioner of Police" wherever they occur the words "Chief Presidency Magistrate" be substituted.

Babu AMULYA DHONE ADDY: May I move the amendment standing in my name?

Mr. PRESIDENT: Because you have an amendment put down in your name, that does not guarantee that you will catch my eye.

Maulvi SAYYED SULTAN ALI: I move that after the word "satisfied" in line 3 the following be inserted, namely:—

"as a result of an inquiry made by himself or a Magistrate of the First Class or a Police Officer not below the rank of an Assistant Superintendent or a Deputy Commissioner of Police."

Before I make any speech I would like to know if the Government member would be pleased to accept this amendment.

Mr. PRESIDENT: How can you do that?

Maulvi SAYYED SULTAN ALI: I wish to make my position clear as to why I have moved this amendment. The clause does not say how the Commissioner of Police or the Magistrate is to be satisfied. Unless and until anything definite is incorporated in it—

MR. PRESIDENT: Maulvi Sahab, you are only moving the second part of your amendment. What about the first portion?

Maulvi SAYYED SULTAN ALI: I do not move that. I am moving the second portion. Unless and until something definite is incorporated in the section we cannot understand the manner in which the District Magistrate or the Commissioner of Police will be satisfied. It may so happen that on the report of an ordinary constable his immediate superior may be satisfied and on his report the Commissioner of Police or the District Magistrate may proceed. It is quite well known what reputation the police in this country possess: And more particularly having regard to the manner in which some of them have betrayed the trust reposed in them during the recent riots in Calcutta the police officers below the rank suggested in the amendment cannot be relied on. I think the manner in which the Commissioner of Police or the Magistrate is to be satisfied should be incorporated in the section as suggested in the amendment. In that view of the matter I have moved the amendment.

The Hon'ble Sir HUGH STEPHENSON: I am afraid I cannot accept this amendment, because I do not think that it will add anything to the procedure to be adopted. It is perfectly obvious that if the Commissioner of Police or the Magistrate is to be satisfied, he must be so on the result of an inquiry made either by himself or somebody else. As I assured the House in my opening speech, no reports will go up to the Commissioner of Police except through the Deputy Commissioner of the Detective Department. Therefore, in every case the Deputy Commissioner of the Detective Department will have made an inquiry before he sends up a case to the Commissioner of Police. If it is intended that the Commissioner of Police should inquire into every case himself then the position becomes hopeless. The same question was raised with regard to the Goonda Act and I pointed out that it arose out of a misapprehension, a confusion as to procedure, that under the procedure in these cases there will be no inquiry on the spot—for instance, asking neighbours about the *goondas*. The report that will go to the Commissioner of Police will give the reasons why the Deputy Commissioner in charge of the Detective Department considers a man to be of the class of man against whom the House would wish to deal, and that I think really provides all the safeguards that are required. The addition of this proviso will merely throw an obligation on the Commissioner of Police.

Maulvi SAYYED SULTAN ALI: In view of the reply given by the Hon'ble Member in charge I beg leave to withdraw the amendment.

The motion was then, by leave of the Council, withdrawn.

Sir PROVASH CHUNDER MITTER: In view of the absence of my friends opposite I do not wish to move my next amendment.

Mr. PRESIDENT: You need not give reasons for not moving an amendment.

The following motions were called but not moved:—

Maulvi SAYYED SULTAN ALI to move that in sub-clause (i) of clause 4, in line 2, after the word “Magistrate” the words “or the Chief Presidency Magistrate” be inserted.

Sir PROVASH CHUNDER MITTER to move that the following be added after the word “jurisdiction” in line 4 of clause 4 (I), namely:—

“is a *goonda*, or a member of a gang or body of *goondas* or is a bad character, or has recently taken an aggressive part in riots and disturbances and is residing within or habitually visiting or frequenting the Presidency area, and that such person.”

Babu BEJOY KRISHNA BOSE to move that in sub-clause (I), lines 4 and 5, the words “or is likely to commit” be omitted.

Babu AMULYA DHONE ADDY: I move that in sub-clause (I) of clause 4, line 4, for the word “likely” the word “about” be substituted.

It will appear from the wording of the clause—

Mr. PRESIDENT: I hope you will make a short speech.

Babu AMULYA DHONE ADDY: Is it going to be accepted, Sir?

Mr. PRESIDENT: I am afraid I cannot answer that question.

Babu AMULYA DHONE ADDY: Then I am entitled to explain the matter fully. Sir, I suggest the substitution of the word “likely” by the word “about,” because I do not find such a word in a similar section of the Criminal Procedure Code.

Babu DEBI PRASAD KHAITAN: May I rise to a point of order? Is it necessary to explain to this Council the difference between the word “likely” and the word “about”?

Babu AMULYA DHONE ADDY: I think that there is a great deal of difference. It appears that even in section 11 of the Ordinance Act of 1926 we find the words “about to commit.” In section 110 of the Criminal Procedure Code, 1898, we find the words “attempts to commit.” Therefore, I think that instead of using the word “likely” we would be justified in using the word “about.” With these words I beg to move the amendment.

The Hon'ble Sir HUGH STEPHENSON: The reason I gather from Mr. Addy's speech is the precise one why "likely" is used. This is an emergency measure and no one will want to wait until a person is "about" to commit murder with a dagger. You want to deport the persons who are "likely" to do so and that is the reason why we use the word "likely."

The motion of Babu Amulya Dhone Addy was then put and lost.

The following motion was called but not moved:—

Rai SATYENDRA NATH ROY CHAUDHURI Bahadur to move that sub-clause (b) of clause 4 (I) be omitted.

Mr. PRESIDENT: The following amendment was put on the paper through an oversight and I therefore rule it out. It requires previous sanction:—

Babu BEJOY KRISHNA BOSE to move that in clause 4, sub-clause (I), lines 16 to 22, for the words from "to remove himself" to the end of the paragraph, the following be substituted, namely:—

"to execute a bond, with or without sureties, for keeping the peace, or be of good behaviour, for such period not exceeding six months, as the said officers think fit:

Provided that on failure to execute the bond the person called upon to do so may be imprisoned during the period the state of emergency exists."

Sir PROVASH CHUNDER MITTER: I move that in sub-clause (I) of clause 4, line 19, for the words "two years" the words "one year" be substituted.

I ask that the period be reduced to one year. If the Government thinks that this is a reasonable amendment I think it will be accepted. If the Government does not accept it, there is no hope of my amendment being carried.

The Hon'ble Sir HUGH STEPHENSON: Personally I prefer two years, but if the feeling of the House is that one year should be fixed I shall not press my personal view. As I understand that the general view of the Council is that the period should not be more than one year I am prepared to accept the amendment.

The motion that in sub-clause (I) of clause 4, line 19, for the words "two years" the words "one year" be substituted, was then put and agreed to.

The following motions were called but not moved:—

Mr. N. C. SEN to move that in clause 4 for the words "not exceeding two years" wherever they occur, the words "not exceeding six months" be substituted.

Maulvi SAYYED SULTAN ALI to move that in clause 4 (1), lines 20 to 23, the words " without the written permission of the Commissioner of Police or the District Magistrate, as the case may be ", be omitted.

Babu BEJOY KRISHNA BOSE to move that sub-clause (2) of clause 4 be omitted.

Mr. BYOMKES CHAKRAVARTI: I move that in sub-clause (2) of clause 4—

- (a) for the word " unless " in line 2, the word " if " be substituted;
- (b) for the words " both he and his father were " in line 4, the words " neither he nor his father nor his grandfather was " be substituted;
- (c) for the words " or that he is " in line 5, the words " and that he is not " be substituted; and
- (d) for the words " is himself " in line 6, the words " that he is himself not " be substituted.

This amendment can be divided into two parts. As regards the first part, I do not think that there can be any objection. With regard to the other part it is only a question whether in a measure of this sort Government desires that the onus should be thrown on the accused. I appeal to the Hon'ble Mover of the Bill that it is not right to place the onus on the accused in a measure of this sort.

The Hon'ble Sir HUGH STEPHENSON: Government do not attach great importance to this point whether the onus should be placed on the accused. A similar provision is to be found in the Goonda Act. Under the Goonda Act a man is asked whether he wishes to claim that he is a Bengali or that he is domiciled in Bengal, and so far as I know, such a claim, if made, has never been disputed by the police. I do not think the question is really one of any importance.

There is another point in the amendment. It takes us back three generations. The amendment will make the clause read thus:

" An order under sub-section (1) against any person may, if the Commissioner of Police or the District Magistrate as the case may be, is satisfied in respect of such person that neither he nor his father nor his grandfather were born in Bengal."

We might have a man whose father was not born in Bengal but he was himself born in Bengal. There are many cases where we have an up-country man coming down to Calcutta to work. His son is born in Calcutta, and after a short time the whole family go back to Bihar and settle down. Later on the son comes down to Calcutta and becomes a *goonda* or a bad character. Under the Goonda Act we can send him back to Bihar, but under this clause we cannot get rid of him because he was born in Bengal. Therefore I cannot agree to accept this amendment and I prefer the Bill as it stands.

The motion of Mr. Byomkes Chakravarti was then put and lost.

Sir PROVASH CHUNDER MITTER: I formally move that in sub-clause (2) of clause 4, line 10, for the words "two years" the words "one year" be substituted.

Babu AMULYA DHONE ADDY: I beg to support it. (Laughter.)
The motion was then put and agreed to.

The following motions were called but not moved:

Maulvi SAYYED SULTAN ALI to move that in sub-clause (2) of clause 4, from lines 11 to 13, the following be omitted, namely:—

"save with the written permission of the Commissioner of Police or the District Magistrate, as the case may be."

Babu BEJOY KRISHNA BOSE to move that sub-clause (3) of clause 4 be renumbered as sub-clause (2).

Dr. PRAMATHANATH BANERJEA to move that to clause 4 the following be added, namely:

"Provided that this section shall not apply to any offence of a political nature."

Babu AMULYA DHONE ADDY: I move that to clause 4, the following be added, namely:

"Provided that, without the previous sanction of the local Government, no *bona fide* servant of a merchant, trader, landholder or resident of the Presidency area shall be directed to be removed under this section."

This is the suggestion of the Bengal National Chamber of Commerce, who have already made a representation to the Government to this effect. Sir, under clause 4 the Commissioner of Police can remove an offender. Of course it is subject to the general control of the local Government, but in every case the local Government cannot be expected to exercise supervision. Therefore, in order to protect these *bona fide* servants of merchants and traders of Calcutta it is desirable that the local Government should exercise control in every such case. These *durwans* are engaged for the protection of life and property of these merchants and traders, and they are also engaged for the collection of money. Under these circumstances it is desirable that there should be some provision for the protection of these poor persons.

The Hon'ble Sir HUGH STEPHENSON: I am afraid I cannot accept this. Mr. Addy wants that no *bona fide* servant of a merchant or trader or resident should be removed except with the previous sanction of Government. In that case it will be open to any *goonda* leader to say that the man is a *bona fide* servant of his and the Commissioner of Police will be powerless. I think all reasonable protection is given by the amendment which I propose to move myself shortly

giving any man against whom an order is proposed to be made, an opportunity of showing cause against the order. In addition to that I propose to accept an amendment giving practically a power of appeal to the local Government, and I think Mr. Addy will be satisfied that no injustice will be done to any *bona fide* servant of a merchant or trader like himself.

The motion of Babu Amulya Dhone Addy was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 4, as amended, stand part of the Bill.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 3 P.M. on Tuesday, the 18th May, 1926, at the Town Hall, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE Council met in the Council Chamber in the Town Hall, Calcutta, on Tuesday, the 18th May, 1926, at 3 P.M.

Present:

The Hon'ble the President (Kumar SHIB SHEKHARESWAR RAY) in the Chair, the four Hon'ble Members of the Executive Council, and 58 nominated and elected members.

Government Business.

Government Bills.

The Presidency Area (Emergency) Security Bill, 1926.

CLAUSE 5.

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Sir Hugh Stephenson): I move that for clause 5 the following be substituted, namely:—

" 5. (1) Before making an order under section 4 the Commissioner of Police or the District Magistrate, as the case may be, shall give an opportunity to the person against whom the order is proposed to be made to show cause against the order, and shall consider such representations as he may make verbally or in writing.

(2) Within forty-eight hours from the making of an order under section 4 the Commissioner of Police or the District Magistrate, as the case may be, shall forward in writing to the local Government his reasons for making the order."

This amendment has been brought forward in response to many representations which have been made to Government that a man before an order is made against him should know what is alleged against him, and have an opportunity of stating his point of view. Various amendments have been brought forward by way of increasing safeguards, but I think this one meets many of the points that have been brought forward. I therefore commend it to the House.

The motion was put and agreed to.

The following motions failed owing to their being covered by a previous decision of the Council:—

Babu SURENDRA NATH RAY, Sir PROVASH CHUNDER MITTER and Babu AMULYA DHONE ADDY to move that in clause 5 for the words "Commissioner of Police" the words "Chief Presidency Magistrate" be substituted.

Sir PROVASH CHUNDER MITTER to move that in line 6 of clause 5 for the words "but shall not" the words "and shall" be substituted.

Babu SURENDRA NATH RAY: I move that to clause 5 the following new sub-clause be added, namely:—

"The local Government may at any time annul, vary or modify such order on such terms as they think fit and proper."

I understand that Government is going to accept this amendment. The reason why I move it is that when Government have before them all the materials, they may think of varying the order of the Commissioner of Police or the District Magistrate. This is the principal reason which has induced me to move this amendment.

The Hon'ble Sir HUCH STEPHENSON: I think that in any case the power which this amendment proposes to give is inherent with the local Government, but I have not the remotest objection to the principle of the amendment. The reason, I oppose this, is that a later amendment, No. 54, which is perhaps far more comprehensive than that of Babu Surendra Nath Ray, would probably be more acceptable to the Council. I shall accept the amendment standing in the name of Babu Debi Prosad Khaitan, and this amendment perhaps will be withdrawn accordingly.

The motion of Babu Surendra Nath Ray was then, by leave of the Council, withdrawn.

The following motion was called but not moved:—

Babu BEJOY KRISHNA BOSE to move that at the end of clause 5 the following be added, namely:—

"Provided that the reasons so recorded are subject to revision by the local Government on application made to them by the person concerned or on his behalf."

Mr. PRESIDENT: The question is that clause 5, as amended, stand part of the Bill.

The motion was put and agreed to.

NEW CLAUSE 5A.

Mr. N. C. SEN; I move that after clause 5 the following be inserted, namely:—

"5A. (1) Within a month of the service of the order the person or persons against whom such order is made shall be furnished with

a copy of the reasons recorded by the Commissioner of Police or the District Magistrate, as the case may be, and forwarded to the local Government.

(2) Within a month of the service of the order under section 4, the local Government shall cause the copy of the reasons recorded by the Commissioner of Police or the District Magistrate, as the case may be, with all material facts and circumstances in their possession, relevant to the same to be placed before a tribunal consisting of a Judge of not less than ten years' standing, an advocate of not less than ten years' standing, and a member of the Bengal Legislative Council elected by that body.

(3) The tribunal shall on the application of any person or persons affected by an order under section 4, fix a date for the hearing of the case and consider the evidence placed before it by the local Government and take such evidence as is offered by the applicant at their discretion and confirm or revise or set aside the order.

(4) The person or persons affected by the said order shall be entitled to appear before the tribunal by advocates or pleaders, but the tribunal may in its discretion permit the person against whom an order has been made to be present at the hearing on such terms and conditions as to the tribunal may seem fit."

In this clause which I have set out there is nothing to which Government ought really to take exception. Just as Government have come here to ask for extraordinary powers—and it is admitted, Sir, that they are very wide, arbitrary and extraordinary powers—it is the bounden duty of Government to see that the rights of the people are equally protected. At a time of emergency like the last riots, the Commissioner of Police will not have the time at his disposal, nor will he have the opportunity of judging of individual cases in the same way as in ordinary circumstances. Human institutions being as imperfect as they are, it is quite likely, and in fact it does always happen, that very often proceedings are taken against persons on insufficient grounds. Now, no man can possibly rebut anything against him unless he knows what are the charges against him. He must be told the reasons for which a particular order of externment has been made against him. There is no provision in the Bill for supplying the person with a copy of the reasons recorded by the Magistrate or Commissioner of Police, and I think it is absolutely essential that any person affected by an order of that kind should be told what the charges are against him, and should be given an opportunity, particularly when there is such a summary procedure under this law, to rebut anything recorded against him.

Now, Sir, it is quite likely that at a time of communal tension a person or number of persons may make allegations against a quite

respectable citizen; the Commissioner of Police will not have the opportunity or the time to go into the merits of the case, but in order to bring about peace and quiet he may have to take the risk of externing a person of that description, and unless he can at some time or other come before a tribunal and know his case and bring forward his own evidence, great injustice may be done to such a person. It is for this reason, Sir, that I am suggesting that some provision should be made in the Act for remedying this sort of thing. In order not to embarrass the Government at a time of emergency, I have suggested that this should not be done immediately, but after a month. Government may, after the expiry of a month, furnish the person with a copy of the order. If Government cannot bring about peace and quiet within a month, I say it ought to abdicate. There will be quite enough time for them to settle down and then look into the orders they have passed. I have suggested that these cases should be heard, not by the Commissioner of Police, who himself has passed the orders, but by a special tribunal. It is difficult for a man who once passed an order to cancel it or modify it—that is a natural, human failing. This should be done by an independent body, and I have suggested that the tribunal should consist of persons who would not be biassed one way or other, and is to consist of a District Judge of not less than ten years' standing, an advocate of not less than ten years' standing, and a member of the Bengal Legislative Council elected by that body—a body which can be safely trusted to do its duty. I have also suggested that the tribunal will look into the papers that Government may produce, and listen to such other facts and circumstances as may be in their possession. It may not be quite possible to have a proper judicial trial, and therefore I have proposed that if the members of the tribunal think that they ought to give a chance to the person to bring forward his own evidence, they should examine this evidence at their discretion. I submit, Sir, that this is a very, very mild and harmless proposition. At the same time it will safeguard the interests of the people who may come under the operation of this new Act. I do not think I need say very much to commend this to you; I am not seeking in any way to embarrass the Government, but I am seeking to protect the rights and liberties of the people. There is an Emergency Act in England, under which the declaration of an emergency cannot last for more than seven days and unless it is approved by both Houses of the legislature that such a declaration of emergency should continue. There Parliament promulgates the rules and creates a tribunal to enquire into the cases to be tried thereunder. In this case, there is no such approval of the people through the legislature; it will be at the absolute discretion of Government to declare a state of emergency, and not only is it at the absolute discretion of the Government to declare an emergency, but also it will be at the discretion of the Commissioner of Police to pass orders under section 4. Here there are not the safeguards found in other countries, and it is all the

more necessary therefore that there should be safeguards, to protect the rights of the people.

Now, Sir, it is quite possible that there might be a complaint against a business man; I know that during the last riots allegations were made against some very respectable people on both sides. Under this Act the Commissioner of Police may take action against persons who may have large business interests here, and who will have to go away for one year and let their business be ruined. Are you going to make homes desolate by removing the sole breadwinner? I have not suggested that the trial should take place at a time of stress; but when peace and quiet are restored, the tribunal might look into these cases. Government ought, further, to see that all the orders passed are just and proper, and for that purpose they ought not to have any objection to having the cases submitted to an impartial tribunal. I do hope, Sir, that members of this House will consider the circumstances and approve of this amendment.

CLAUSE 6.

The following motion was called but not moved:—

Babu BEJOY KRISHNA BOSE to move that clause 6 be omitted.

The following motion failed owing to it being covered by a previous decision of the Council: •

Babu AMULYA DHONE ADDY and Babu SURENDRA NATH RAY to move that in clause 6, for the words "Commissioner of Police" the words "Chief Presidency Magistrate" be substituted.

The following motion was called but not moved:

Mr. BYOMKES CHAKRAVARTI to move that in clause 6, line 7, after the word "father" the words "and the grandfather" be inserted.

NEW CLAUSE 6A.

The following motion was called but not moved: -

Sir PROVASH CHUNDER MITTER to move that the following be inserted after clause 6, namely:—

" 6A. (1) When an order has been served under this Act on any person and has been complied with by him, a friend or legal adviser authorised by him in writing may prefer an appeal to the officer specified in sub-section (2) of this section and such officer may, on consideration of all facts concerning the case, either confirm, modify or annul the order appealed against.

(2) The local Government shall appoint a Judge who has served as a District and Sessions Judge for a period of not less than five years to hear appeals under sub-section (1) of this section."

Babu AMULYA DHONE ADDY: I move that after clause 6, the following be inserted, namely:—

“ 6A. (1) Within one month from the date of an order under section 4 or section 6, the local Government shall place before a Judge, who shall be an officer appointed by it not below the rank of a District Judge, the order under the said section with reasons therefor under section 5 and material facts and circumstances relevant to the same and any representation submitted by the person against whom the order has been made.

(2) The said Judge shall call for such further information, if any, may examine such witnesses, if any, as shall appear to him to be necessary, and shall report to the local Government whether or not in his opinion there is lawful and sufficient cause for the order.

(3) On receipt of the said report, the local Government shall consider the same and shall pass such order thereon as may appear to the local Government to be just and proper.”

It is of the utmost importance that there should be some revising authority appointed by Government, who should be an officer not below the rank of a District Judge, to exercise powers of revision over the orders passed by the Commissioner of Police or the District Magistrate, as the case may be. Sir, I think it is not advisable to make the police all-powerful, and to make them both the accuser as well as the Judge; but there should be some safeguards against the vagaries of the police, and I beg to submit that deportation without trial, even without a judicial enquiry, is likely to effect the very foundation of human liberty. It is inadvisable that a man should be condemned in his absence without a trial or a judicial enquiry. Sir, it is practically giving the police the power to deport anyone whom they want to get rid of. We find under Act XIV of 1908, section 11 (1), it is provided that a trial should be by a special Bench of three High Court Judges; in the case of deportation under the Act of 1908 there is to be a trial by three High Court Judges. Even under the Goonda Act there is a judicial enquiry by two advisory Judges; then, again, Sir, in the Ordinance Act of 1925 there is a provision for a trial by Judges, and there is a right of appeal also against the decision of the Judges, to the Calcutta High Court. It will be seen that my suggestion is a very moderate one. I have only suggested that there may be a Judge to advise the local Government, and the decision of the local Government shall be final. Sir, I have copied practically the provisions of section 18 of the Ordinance Act of 1925, with the exception of sub-clause (3). If it is regarded as advisable in the case of the Ordinance Act, it is certainly advisable in the case of the Bill under consideration. Sir, we do not object to an offender being arrested under section 4 by the Commissioner of Police, even on suspicion, but I beg to submit that when the riots are over and

peace is restored, there should be some authority, a judicial authority, to look into the papers and submit a report to the local Government for its guidance. It may be said that under section 4, the orders of the Commissioner of Police would be under the control of the local Government, but by the local Government we generally mean the Hon'ble Member in charge of the Police Department. Now, may I ask as to whether it is right to deport people without a judicial enquiry? I answer in the negative, and therefore I submit that there should be a judicial officer to go through the papers carefully and submit his opinion to the local Government, and the decision of the local Government should be final. This provision occurs in other Acts, and I beg to submit that a similar provision should be made in this Act also.

Babu DEBI PROSAD KHAITAN: I move the amendment of which notice has been given by me in a slightly modified form, namely:—

“ That the following be inserted after clause 6, namely:—

“ 6A. When an order has been served on any person under section 4 and has been complied with by him, his agent, authorised by him in writing, may petition the local Government to revoke or modify the order, and thereupon the local Government shall consider such facts and circumstances relating to the case as may be placed before it, and may confirm, modify or revoke the order.”

(Permission to move the motion, as amended, was given.)

Babu DEBI PROSAD KHAITAN: I move it in the amended form in which I have read it out. It may be asked why, in view of the amendments that have been moved by my friends, Mr. Sen and Babu Amulya Dhone Addy, I have moved this amendment. The reason is that both the amendments of my friends require a case to go to a tribunal consisting of Judges. We have been told that the responsibility for the administration of the Act is taken by the Executive Government, and if the appeal goes to judicial officers, the responsibility of the Executive Government will thereby be taken away, and that in a statute of this nature the local Government should not shift its responsibility on to a judicial tribunal. Sir Hugh Stephenson in an early part of the debate in this House to-day stated that in his opinion a provision of this nature was not needed. I will very shortly submit to this House my views why I think a provision of this nature is needed if the remedy of a *quasi*-appeal is to be given to a person upon whom an order is served. Sir Hugh Stephenson's statement is based on the words “ subject to the control of the local Government ” mentioned in clause 4, sub-clause (1), of the Bill. But these words, I am advised by competent lawyers, refer to the time when proceedings are initiated. And once an order, which is referred

to after those words, is made, the effect of the words " subject to the control of the local Government " perhaps disappears, and after the order is made, subject to the control of the local Government, the person upon whom the order is served would have no remedy under this Bill of filing a petition to the local Government for a revision of the judgment of the Commissioner of Police. Sir, in these circumstances, as it is conceded that the object of Government is to give such a right to the person upon whom an order is served, it is necessary to make the point quite clear by inserting a clause of the nature that I have moved. The reason again, Sir, why I have stated that an agent alone can file a petition is that this petition to the local Government can only be filed after the order has been served and has been complied with by such a person. Therefore, Sir, for a person who seeks a remedy and who is out of Calcutta, it is clearly desirable that his agent, authorised in writing, should be permitted to file the petition to the local Government, to look after his defence or appeal, whatever it may be called, and obtain the necessary remedy.

The Hon'ble Sir HUGH STEPHENSON: I may state at the outset that I am quite prepared to accept Mr. Khaitan's amendment. My remark to which he took exception applied only to Babu Surendra Nath Ray's amendment, and I quite see that this amendment goes wider and gives a right to a person to petition Government. The other two amendments, I am afraid, I cannot accept. They, both of them, suffer from what has been alluded to in the debate yesterday as a rather fatal tendency of this Council never to give any power to the Executive without taking it away by making it legally subject to a judicial decision.

As regards Mr. Sen's amendment, all I can say is that it is quite impossible for Government to accept it. Mr. Sen says there is no reason why it should be objected to. I beg to differ. The whole effect of Mr. Sen's amendment is to transfer the decision in a purely executive matter from the Executive to the Judicial. He would give his tribunal the power to confirm, modify or revoke an order of the Executive authority; that is to say, that instead of these powers being given to the Executive, they are to be given to the Judicial. That, Sir, is a position which we cannot accept in a state of emergency. It goes further even than the position which the Council accepted in the case of the Goonda Act which is in ordinary use. There the Judges have no such powers. The Judges are purely advisory. They are asked to go through the papers and to advise Government whether a man comes within the definition of a *goonda*. I trust the House will accept the position that we cannot abdicate in favour of a tribunal of Judges.

Then, Sir, we come to Mr. Addy's amendment. That does make the Judges advisory, but would it really help to have a Judge to advise

us a month after the order has been made? The man has left Calcutta and he cannot appear before the Judge. The Judge is asked to say whether the circumstances were such that the Commissioner of Police was satisfied that this man was rightly externed. The Judge has nothing to go on. The case of the Goonda Act is quite different. Under that Act, when the accused comes up before the Judges, what the latter have got to see is whether the man has any previous conviction and whether in all his previous history there is that element of violence by which he can be termed a "goonda." There the judicial authority has some *locus standi* in coming to a decision, and the form of his recommendation is: "I therefore consider that so-and-so is a goonda and the sections of the Act are applicable." It goes no further than that. There is no question of the modification of any order or any sort of suggestion as to what the order should be.

I have just put before the House an amendment and I have expressed my readiness to accept Mr. Khaitan's amendment. The effect of this will be that the accused will be given an opportunity of knowing before the action is taken and representing to the Commissioner of police anything he has to say against the action being taken, and when he fails to convince the Commissioner of Police and the action is actually taken, he has still the right of access to the Executive Government. In a case of this kind the Executive Government is in a far better position to consider the case than a judicial officer who knows nothing about the circumstances of Calcutta. Therefore, I will ask the House to reject these two amendments and accept Mr. Khaitan's.

The motion of Mr. N. C. Sen was then put and a division taken, with the following result:—

AYES.

Addy, Babu Amulya Ghose.
Chakravarti, Mr. Byomkes.
Hag, Shah Syed Emdadul.

Rakhal, Mr. Prasanna Goh.
Ray, Babu Surendra Nath.
Sen, Mr. N. C.

NOES.

Addams-Williams, Mr. C.
Ahmedullah, Mollah.
Aley, Khan Bahadur S. Mahboob.
Ali, Maulvi Sayyid Sultan.
Birley, Mr. L.
Chaudhuri, the Hon'ble Nawab Bahadur
Saïyid Nawab Ali, Khan Bahadur.
Child, Mr. R. H.
Cohen, Mr. S. J.
Cooper, Mr. G. S.
Crawford, Mr. T. C.
Das, Babu Choru Chandra.
Das, Rai Bahadur Amar Nath.
Davis, Mr. J. Cooper.
De, Mr. K. C.
Donald, the Hon'ble Mr. J.
----- Mr. J. S.

Farrister, Mr. J. Campbell.
Ghaznavi, Hadji Mr. A. K. Abu Ahmad
Khan.
Guba, Mr. P. H.
Hag, Khan Bahadur Kazi Ishirul.
Hoard, Major General Richard.
Hephym, Mr. W. S.
Hossain, Nawab Musharraf, Khan Bahadur
Wag, Maulvi Shramat.
Lal Mohammed, Haji.
Lindsay, Mr. J. H.
Martin, Mr. O. H.
Masik, Mr. Syed M.
McKenzie, Mr. E. P.
Morson, Mr. H. W. S.
Nasimuddin, Khan.
Oaten, Mr. E. F.

Patterson, Mr. D. C.
 Philip, Mr. J. Y.
 Rahim, Sir Abd-ur-
 Rahman, Mr. A. F.
 Ray, the Hon'ble Maharaja Bahadur
 Kshausish Chandra.
 Ray Choudhuri, Mr. K. C.
 Ray Choudhuri, Raja Manmatha Nath.

Roy, Mr. S. N.
 Roy, Mr. Tarit Shuman.
 Roy, Raja Manik Singh.
 Sarkar, Maulvi Afiah Sukhoh.
 Stephenson, the Hon'ble Sir Hugh.
 Villiers, Mr. E.
 Walker, Mr. R. L.
 Wilson, Mr. R. S.

The Ayes being 6 and the Noes 47, the motion was lost.

The following motion of Babu Debi Prosad Khaitan was then put and agreed to:—

“ That the following be inserted after clause 6, namely:—

‘ 6A. When an order has been served on any person under section 4 and has been complied with by him, his agent, authorised by him in writing, may petition the local Government to revoke or modify the order, and thereupon the local Government shall consider such facts and circumstances relating to the case as may be placed before it, and may confirm, modify or revoke the order.’ ”

The motion of Babu Amulya Dhone Addy was not put as it was covered by the decision on Babu Debi Prosad Khaitan's motion.

Mr. PRESIDENT: The question is that clauses 6 and 6A, as amended, stand part of the Bill.

The motion was put and agreed to.

CLAUSE 7.

The Hon'ble Sir HUGH STEPHENSON: I move that in clause 7, lines 2 and 3, the words “ or having evaded an order ” be omitted. Sir, these words have crept in from the Goonda Act, where the procedure is somewhat different. They are not required here, and I therefore propose to omit them.

The motion was put and agreed to.

SHAH SYED EMDADUL HAQ moved that in clause 7, line 7, after the word “ order ” the following be inserted, namely, “ without obtaining, on account of ill-health or such like contingencies, an extension of time on application to the Commissioner of Police or the District Magistrate, as the case may be.”

• **The Hon'ble Sir HUGH STEPHENSON:** The amendment is objectionable in law on account of its vagueness. “ On account of ill-health or such like contingencies ” is not a phrase that can be used in an Act. But apart from that, it is entirely unnecessary. If a man on whom an order has been served applies to the Commissioner of Police and obtains an extension of time within which he has to leave Calcutta,

then I think it will be considered as a new order and the original order will no longer apply. But apart from any technical legality, the thing is entirely unnecessary. If the Commissioner of Police grants an extension of time, nothing is going to happen to the man within the extended period.

The motion of Shah Syed Emdadul Haq was put and lost.

The following motions were called but not moved:—

Maulvi SAYYED SULTAN ALI to move that in clause 7, lines 10 to 13, the following be omitted, namely:

“ without the written permission of the Commissioner of Police or the District Magistrate, as the case may be.”

Babu SURENDRA NATH RAY, Sir PROVASH CHUNDER MITTER and Babu AMULYA DHONE ADDY to move that in clause 7, for the words “ Commissioner of Police ” the words “ Chief Presidency Magistrate ” be substituted.

Babu AMULYA DHONE ADDY: I move that in clause 7, penultimate line, the word “ rigorous ” be omitted.

Sir, the work has been entrusted to a District Magistrate or the Presidency Magistrate, and under the Bill the only punishment which he can give is rigorous imprisonment. I beg to suggest that the word “ rigorous ” be omitted, so that he may inflict rigorous or simple imprisonment, as the case may be. I should like to leave the matter entirely to the discretion of the Magistrate.

SHAH SYED EMDADUL HAQ moved that in clause 7, line 21, after the word “ rigorous ” the words “ or simple ” be inserted, and after the word “ year ” in line 22, the words “ or with fine not exceeding one thousand rupees ” be added.

The Hon'ble Sir HUGH STEPHENSON: The imprisonment is provided for only in the case of not obeying the order to leave Calcutta. It is not on the lines of imprisoning a man for failure to provide security when he is considered likely to commit a breach of the peace. We have in the Goonda Act provided for the imprisonment being rigorous, and having regard to the class to which, as I said yesterday, these powers will be applied and having regard to the recent decision of the Assembly that simple imprisonment is not suitable for a man who fails to give security under section 109, Criminal Procedure Code, I do not think it is right to provide for simple imprisonment. The Government of India have put forward a very strong case that giving simple imprisonment to a man who is imprisoned for failure to provide security under section 109 is entirely a wrong procedure. The Inspector-General of Prisons in this Province has protested against the demoralisation of idleness and against providing a free club with nothing to do for men of this class. The class of persons we propose to deal with under

these powers is such that it would be a mistake to provide for simple imprisonment. The man will get no imprisonment at all if he leaves Calcutta. He has that alternative. It is only when he refuses to obey the order to leave Calcutta and insists on remaining here or returns that he will be given rigorous imprisonment. If he does not obey the order, I think there are good reasons for suspecting his motive. Therefore I propose to keep to the original wording.

The motion of Babu Amulya Dhone Addy was then put and lost.

The motion of Shah Syed Emdadul Haq was then put and lost.

MR. PRESIDENT: The question is that clause 7, as amended, stand part of the Bill.

The motion was put and agreed to.

CLAUSE 8.

MR. PRESIDENT: The question is that clause 8 stand part of the Bill.

The motion was put and agreed to.

PREAMBLE.

MR. PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Sir HUCH STEPHENSON: I move that the Bill, as settled in Council, be passed.

Babu JATINDRA NATH BASU: We have just concluded the discussion of the Bill in all its bearings; and it is now going to be placed on the statute book. It is a measure of great importance. Apprehensions have been expressed in different quarters about the effects of this Bill. Sir, during the late disturbances certain classes of people—Indian bankers, Indian merchants and Indian traders, who were mostly affected by the disturbances—appealed to the police for assistance and the reply they very often had was that they should try to assist themselves. It may be that the police were too busy with maintaining order in public thoroughfares and in public places to render any assistance in these cases. In such a contingency it becomes absolutely necessary for these men, who have a large stake in the affairs of the city, to employ retainers not only to defend their hearth and home but also to carry on their ordinary avocations. Apprehensions have been expressed that these persons so employed might be brought under the operation of this Act. Sir, this Act places extraordinary powers in the hands of the Executive. Having regard to the disturbances and

the course they took, it became apparent that the powers that the Executive had were not sufficient for them to control such a situation. Larger powers were therefore asked for from the Council and these powers have been given. But it depends to a great extent upon the manner in which these powers are exercised as to whether the Act will really perform the function that it is intended to perform. Sir, complaints have been made that timely information had been given to the authorities in the case of the first outbreak and in the case of the second outbreak that disturbances might break out and that a dangerous situation was developing, and asking that the police should take steps. The first outbreak took place late in the afternoon. I have been told that intimation was sent to the police authorities the previous morning by tradesmen, merchants and peaceful citizens who lived in that locality of the city where the disturbances took place, that preparations were being made which boded that there would be trouble. But for some reason or other, the precautions that were taken were not sufficient and did not result in the prevention of the outbreak. In the case of the second outbreak, the Marwari Association sent a long telegram on the previous day to His Excellency the Governor, detailing certain circumstances which showed that another outbreak was expected, but for some reason or other in this case also the steps that were taken were not sufficient, and the outbreak came. All these outbreaks took place in certain well-known areas, areas which contain a population that is likely in times of disturbance to break out into violence, but so far as can be judged from the steps that were taken by the police and the executive authorities, not much attempt was made to control those localities, with the result that we witnessed the scenes that took place on the occasion of the two outbreaks. While it is necessary that the Executive should have full powers, it is also necessary that those powers should be exercised in due time. If there is delay or lukewarmness in the exercise of those powers, then the object of the Act will fail. As over-zealousness is bad, delay is also bad.

Sir, I urge the Government to understand that as this Act places important powers in the hands of the Executive, it should be used in such a way as not to take away ordinary protection from merchants, bankers and the public. The Executive should also use these powers promptly when occasion arises, but not be over-zealous in the exercise of these powers, so that innocent men may not suffer. There will be some amount of suffering no doubt, but I hope that adequate steps will be taken to see that the suffering is minimised as much as possible.

Mr. P. N. GUHA: I want to speak only a few words regarding the general aspect of the Bill that is now going to be passed. The amendments that were tabled from this side of the House, if carefully studied, would show that we who are accused of following the Government blindly in every measure, are unjustly criticised. We

wanted to show the public side of the question very carefully, and amendments that were tabled in the name of our leader, Sir Provash Chunder Mitter, were very carefully settled at a party meeting. I am under the belief that if the members on the other side of the House had not vacated their seats, we could then probably have gained some of these points and made the Bill quite acceptable to the people. Sir, it was asserted yesterday that Indians generally have got a habit of saying that they were prepared to give powers to the Government, provided "this and that." The difference between ourselves and the Swarajists is that we do not distrust the Government; we do not say that "Government have manufactured these riots" only to keep down a certain political party; we do not say that "the Bill has been brought forward to whitewash the inactivity of the executive." We really felt that the executive authorities were under the necessity of acquiring more power from the legislature, and that was why we supported the introduction of the Bill. The nature of the amendments that were tabled would show that we only tried to give some powers to the judicial authorities. This is an old controversy in this country, going on since the Indian National Congress was established. Indians have always been clamouring for the absolute separation of the executive and the judicial functions. We have always held that the actions of the Executive Government should be controlled by the judicial power, and any one who has read these amendments would see that our object was nothing but to give the power of revision to the judiciary, and I am only sorry that we could not carry out these amendments owing to the fact that a large number of the members of this Council thought it proper to run away without giving their help in the matter of making this Bill more acceptable to the people. I want to assure my European colleagues that we do not distrust the executive authorities, we do not distrust the Government; if we did we would have certainly voted with the other side. We are always prepared to give powers to the Government, but we also maintain that as children of the soil, we understand something of our own interests. It is not wise to think that we Indians are so many infants and do not understand anything of our condition, but only those few people who conduct the Government of the country know what is best for us. We greatly resent such mentality of the people of the ruling race. We know what we require and our grievance is that we are not consulted in times of stress and difficulty. This Bill, I am sure, would have been welcome, had it been brought forward at a time when we on behalf of the people were clamouring for it, but at that time Government failed to take advantage of the situation that was created in this city. I venture to say that it was unwise.

Sir, I have made these observations only to make the position of my party clear, and I further want to assert most emphatically that those people who have come to this Council to safeguard the interests

of their country, did a great injustice to their constituents by running away at the time of crisis.

Babu AMULYA DHONE ADDY: May I speak a few words on this point, Sir?

Mr. PRESIDENT: You cannot, as the Hon'ble Sir Hugh Stephenson is now in possession of the House.

The Hon'ble Sir HUGH STEPHENSON: It is not necessary for me to say anything, I think, at this stage, except to say that I entirely accept Babu Jatindra Nath Basu's suggestion so far as the necessity of using this Act in the spirit in which it was conceived is concerned, and I can give him the assurance he requires.

Babu AMULYA DHONE ADDY: May I be allowed to make a speech, Sir?

Mr. PRESIDENT: Certainly not.

Babu AMULYA DHONE ADDY: I understood that Sir Hugh Stephenson was giving a personal explanation. Now that he has finished, may I not have your permission to speak?

Mr. PRESIDENT: Is it a personal explanation you are going to make? If not, I cannot let you speak.

Babu AMULYA DHONE ADDY: I want to oppose the passing of the Bill.

Mr. PRESIDENT: You are welcome to oppose it by your vote.

Babu AMULYA DHONE ADDY: That is not enough. I want to adduce reasons why it should not be passed. Am I not entitled to do so?

Mr. PRESIDENT: Order, order.

The motion that the Presidency Area (Emergency) Security Bill, 1926, as settled in Council, be passed, was then put and agreed to.

The Howrah Bridge Bill, 1926.

MEMBER in charge of DEPARTMENT of PUBLIC WORKS (the Hon'ble Mr. J. Donald): I beg to move, under the proviso to Standing Order 6 (2), that the Howrah Bridge Bill, 1926, be continued until the next session of the Bengal Legislative Council.

The motion was put and agreed to.

The Bengal Tenancy (Amendment) Bill, 1925.

MEMBER in charge of DEPARTMENT of LAND REVENUE (the Hon'ble Maharaja Kshaunish Chandra Ray Bahadur of Haldia) beg to move, under the proviso to Standing Order 6 (2), that the Bengal Tenancy (Amendment) Bill, 1925, be continued until the next session of the Bengal Legislative Council.

The motion was put and agreed to.

Prorogation.

Mr. PRESIDENT: I have it in command from His Excellency the Governor to announce that the Council stands prorogued.

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